

No. 22-56199

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**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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YUGA LABS, INC.,

*Plaintiff-Appellee,*

v.

RYDER RIPPS, JEREMY CAHEN,

*Defendants-Appellants,*

*and*

DOES 1–10,

*Defendants.*

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On Appeal from the United States District Court  
for the Central District of California, No. 2:22-cv-04355 (Walter, J.)

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**EXCERPTS OF RECORD  
VOLUME 1 OF 1 (ER1-ER262)**

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**CIVIL MINUTES -- GENERAL**

Case No. **CV 22-4355-JFW(JEMx)**

Date: December 16, 2022

Title: Yuga Labs, Inc. -v- Ripps, et al.

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**PRESENT:**

**HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE**

**Shannon Reilly  
Courtroom Deputy**

**None Present  
Court Reporter**

**ATTORNEYS PRESENT FOR PLAINTIFFS:**

None

**ATTORNEYS PRESENT FOR DEFENDANTS:**

None

**PROCEEDINGS (IN CHAMBERS):**

**ORDER DENYING IN PART AND GRANTING IN PART  
DEFENDANTS' ANTI-SLAPP MOTION TO STRIKE AND  
MOTION TO DISMISS [filed 10/3/22; Docket No. 48]**

On October 3, 2022, Defendants Ryder Ripps ("Ripps") and Jeremy Cahen ("Cahen") (collectively, "Defendants") filed an Anti-Slapp Motion to Strike and Motion to Dismiss ("Motion"). On October 17, 2022, Plaintiff Yuga Labs, Inc. ("Plaintiff") filed its Opposition. On October 24, 2022, Defendants filed a Reply. Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court found the matter appropriate for submission on the papers without oral argument. The matter was, therefore, removed from the Court's hearing calendar and the parties were given advance notice. After considering the moving, opposing, and reply papers, and the arguments therein, the Court rules as follows:

**I. Factual and Procedural Background**

**A. The Parties**

Plaintiff is the creator of one of the world's most well known and successful Non-Fungible Token ("NFT") collections, known as the Bored Ape Yacht Club ("BAYC"). According to Plaintiff, the BAYC NFTs have earned significant attention from the media for their popularity and value, including being featured on the cover of *Rolling Stone* magazine and being dubbed the "epitome of coolness for many" by *Forbes* magazine. Plaintiff alleges that BAYC NFTs often resell for hundreds of thousands, if not millions, of dollars, and prominent celebrities are holders of BAYC NFTs. In addition to certain benefits that come with being a member of the exclusive community of BAYC NFT holders, Plaintiff maintains that much of the BAYC NFT collection's value arises from their rarity because only 10,000 BAYC NFTs exist and each is entirely unique. Plaintiff has pending trademark applications with the U.S. Patent & Trademark Office for "BORED APE YACHT



CLUB,” “BAYC,” “BORED APE,” the BAYC Logo, the BAYC BORED APE YACHT CLUB Logo, and the Ape Skull Logo (collectively, the “BAYC Marks”). Plaintiff has used the BAYC Marks since approximately April 2021 in connection with advertising, marketing, and promotion of its products and services nationwide and internationally through multiple platforms, including the BAYC website, NFT markets such as OpenSea, and social media platforms, such as Facebook, Instagram, and Twitter.

Ripps is a visual artist and creative designer who purports to create artwork that comments on the boundaries between art, the internet, and commerce. According to Defendants, Plaintiff has deliberately embedded racist, neo-Nazi, and alt-right dog whistles in the BAYC NFTs and associated projects.<sup>1</sup> Beginning in approximately November 2021, Ripps began criticizing Plaintiff’s use of these purported racist, neo-Nazi, and alt-right dog whistles through his Twitter and Instagram profiles, podcasts, cooperation with investigative journalists, and by creating the website gordongoner.com.

In addition, in approximately May 2022, Defendants created their own NFT collection, known as the Ryder Ripps Bored Ape Yacht Club (“RR/BAYC”). According to Defendants, the RR/BAYC NFT collection “point to the same online digital images as the BAYC [NFT] collection but use verifiably unique entries on the [Ethereum] blockchain.” Motion, 6:20-22. Defendants contend that their “use of pointers to the same images is a form of ‘appropriation art’ that serves several purposes,” including: (1) bringing attention to Plaintiff’s use of racist, neo-Nazi, and alt-right messages and imagery; (2) exposing Plaintiff’s use of unwitting celebrities and popular brands to disseminate offensive material; (3) creating social pressure demanding that Plaintiff take responsibility for its actions; and (4) educating the public about the technical nature and utility of NFTs. Motion, 6:22-27.

## **B. Defendants’ Alleged Infringement**

In its Complaint, Plaintiff alleges that Defendants have misused the BAYC Marks as part of a scheme to harass Plaintiff, mislead consumers, and unjustly enrich themselves. According to Plaintiff, in response to the popularity of the BAYC NFTs:

Defendant Ryder Ripps, a self-proclaimed “conceptual artist,” recently began trolling Yuga Labs and scamming consumers into purchasing RR/BAYC NFTs by misusing Yuga Labs’ trademarks. He seeks to devalue the Bored Ape NFTs by flooding the NFT market with his own copycat NFT collection using the original Bored Ape Yacht Club images and calling his NFTs “RR/BAYC” NFTs. Brazenly, he promotes and sells these RR/BAYC NFTs using the very same trademarks that Yuga Labs uses to promote and sell authentic Bored Ape Yacht Club NFTs. He also markets these

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<sup>1</sup> Although Defendants contend that Plaintiff’s purported use of racist, neo-Nazi, and alt-right dog whistles are “too numerous to catalog,” Defendants provide several examples in their Motion, including their claim that Plaintiff’s BAYC Logo imitates the Nazi Totenkopf emblem for the Schutzstaffel and their claim that the name of Plaintiff’s company includes a neo-Nazi dog whistle because the word “Yuga” is a reference to the phrase “Surf the Kali Yuga,” which the alt-right uses as an esoteric way of saying enjoy sin and embrace conflict.



copycat NFTs as falsely equivalent to an authentic Bored Ape Yacht Club NFT. He then goes on to use Yuga Labs' marks to promote his coming "Ape Market" NFT marketplace, which requires a person to purchase one of his infringing NFTs to join the Ape Market. This is no mere monkey business. It is a deliberate effort to harm Yuga Labs at the expense of consumers by sowing confusion about whether these RR/BAYC NFTs are in some way sponsored, affiliated, or connected to Yuga Labs' official Bored Ape Yacht Club, in violation of the Lanham Act and related state law.

Complaint, ¶ 2. Specifically, Plaintiff alleges that it "uses the trademarks BORED APE YACHT CLUB, BAYC, BORED APE, APE, BA YC Logo, BA YC BORED APE YACHT CLUB Logo, and the Ape Skull Logo, on a nationwide and international basis to identify its well-known Bored Ape NFT collection" and that Defendants "use the very same marks to promote their RR/BAYC NFT collection. Worse still, they attempt to sell these RR/BAYC NFTs on the same NFT marketplaces that Yuga Labs uses to sell its Bored Ape NFTs, such as OpenSea." Complaint, ¶¶ 33 and 35-36. In addition, Plaintiff alleges that, in approximately May 2022, Defendants "created a website that allows users to 'reserve' RR/BAYC NFTs, which they then mint. The domain for this website is <https://rrbayc.com/>. This website uses Yuga Labs' BAYC trademark in the title of the page ("RR/BAYC"), in the browser tab for the page ("RR/BAYC"), and in the domain for the page (<https://rrbayc.com/>). The website also uses Yuga Labs' Ape Skull Logo mark . . . in the browser tab icon." Complaint, ¶ 34. Plaintiff also alleges that the NFTs depicted on [rrbayc.com](https://rrbayc.com/) "contain BAYC Marks. For example, RR/BAYC #362 has the BAYC, BA YC Logo, and the Ape Skull Logo marks on its hat and RR/BAYC #863 has the Ape Skull Logo mark on its shirt. Both of these fake NFTs are identical to their official BAYC counterparts BAYC #362 and BAYC #863." *Id.* Moreover, Plaintiff alleges that:

Ripps, Cahen, and Does 1-5 created a sales page on Foundation, another NFT marketplace, to sell RR/BAYC NFTs. As of the filing of this Complaint, this page is no longer accessible on Foundation. On information and belief, Foundation removed this page. This page prominently and confusingly used Yuga Labs' BORED APE YACHT CLUB trademark as the title of the page . . . It also used Yuga Labs' BAYC trademark in an unauthorized hyperlink labeled "BAYC" and in the URL of the page (<https://foundation.app/collection/bayc>). And nothing about the URL indicated that it redirected to the RR/BAYC NFT collection, as opposed to the official BAYC NFT collection. Indeed, even the top result in a Google search for "BAYC Foundation.app" or "Bored Ape Yacht Club Foundation.app" was a misleading link titled "Bored Ape Yacht Club – Foundation.app" that redirected to the fake RR/BAYC NFT collection . . . Like their OpenSea page, Ripps, Cahen, and Does 1-5's Foundation page was also deliberately misleading and confusing to consumers and used Yuga Labs' BAYC marks in an attempt to trick community members into buying their NFTs instead of the official BAYC NFTs.

Complaint, ¶ 37. Furthermore, Plaintiff alleges that:

The Foundation page's unauthorized BAYC hyperlink re-routed to the Etherscan page: <https://etherscan.io/address/0x2EE6AF0dFf3A1CE3F7E3414C52c48fd50d73691e> for Defendants' RR/BAYC collection, which publicly tracks sales



and other information for these NFTs. Yuga Labs believes, and therefore alleges, that Ripps, Cahen, and Does 1-5 stole Yuga Labs' BORED APE YACHT CLUB and BAYC trademarks to misleadingly label the token tracker for these RR/BAYC NFTs as "Bored Ape Yacht Club (BAYC)."

Complaint, ¶ 39. Plaintiff alleges that the misleading labeling of the token tracker is important because:

Token trackers are important for validating the authenticity of an NFT. And when future buyers of Ripps, Cahen, and Does 1-5's fake NFTs review the token tracker and contract information for the RR/BAYC NFT, they will be misled into thinking that these NFTs were officially sold by Yuga Labs. Indeed Ripps has gloated that it is consumers' own fault for being confused by his fake NFTs, even though Ripps' actions lay bare that he welcomes the confusion

Complaint, ¶ 40. Plaintiff also alleges that Defendants used the BAYC Marks without authorization in other contexts, such as on various Twitter pages created by Defendants. See Complaint, ¶¶ 42-46.

### **C. Procedural History**

On July 24, 2022, Plaintiff filed a Complaint against Defendants, alleging causes of action for: (1) false designation of origin (15 U.S.C. § 1125(A)); (2) false advertising (15 U.S.C. § 1125(A)); (3) cybersquatting (15 U.S.C. § 1125(D)); (4) common law trademark infringement; (5) common law unfair competition; (6) unfair competition (Cal. Bus. & Prof. Code §§ 17200 *et seq.*); (7) false advertising (Cal. Bus. & Prof. Code §§ 17500 *et seq.*); (8) unjust enrichment; (9) conversion; (10) intentional interference with prospective economic advantage; and (11) negligent interference with prospective economic advantage.

## **II. Discussion**

In their Motion, Defendants seek an order striking Plaintiff's state law causes of action pursuant to California's anti-SLAPP statute, California Civil Procedure § 425.16(c), and dismissing Plaintiff's federal causes of action pursuant to Rule 12(b)(6) or, alternatively, dismissing Plaintiff's Complaint pursuant to Rule 12(b)(6).

### **A. Defendants' Motion to Dismiss**

In their Motion to Dismiss, Defendants argue that Plaintiff's trademark claims are insufficient. Defendants do not deny Plaintiff's ownership of and priority in the BAYC Marks or otherwise argue that Plaintiff failed to sufficiently allege trademark infringement. Instead, Defendants argue that Plaintiff's trademark infringement claims are legally insufficient under the free speech test in *Rogers v. Grimaldi*, 875 F.2d 994 (2d Cir. 1989), and because Defendants' use



of the BYAC Marks constitute nominative fair use.<sup>2</sup> In its Opposition, Plaintiff argues that Defendants' RR/BAYC NFTs are not expressive works and do not warrant the application of the *Rogers* free speech test. Plaintiff also argues that Defendants' use of the BAYC Marks is not a fair use. In addition, Defendants argue that Plaintiff fails to sufficiently allege any of the other causes of action in the Complaint, which Plaintiff denies.<sup>3</sup>

## 1. Legal Standard

A motion to dismiss brought pursuant to Federal Rule of Civil Procedure 12(b)(6) tests the legal sufficiency of the claims asserted in the complaint. "A Rule 12(b)(6) dismissal is proper only where there is either a 'lack of a cognizable legal theory' or 'the absence of sufficient facts alleged under a cognizable legal theory.'" *Summit Technology, Inc. v. High-Line Medical Instruments Co., Inc.*, 922 F. Supp. 299, 304 (C.D. Cal. 1996) (quoting *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1988)). However, "[w]hile a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the 'grounds' of his 'entitlement to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal citations and alterations omitted). "[F]actual allegations must be enough to raise a right to relief above the speculative level." *Id.*

In deciding a motion to dismiss, a court must accept as true the allegations of the complaint and must construe those allegations in the light most favorable to the nonmoving party. *See, e.g., Wyler Summit Partnership v. Turner Broadcasting System, Inc.*, 135 F.3d 658, 661 (9th Cir. 1998). "However, a court need not accept as true unreasonable inferences, unwarranted deductions of fact, or conclusory legal allegations cast in the form of factual allegations." *Summit Technology*, 922 F. Supp. at 304 (citing *Western Mining Council v. Watt*, 643 F.2d 618, 624 (9th Cir. 1981) *cert. denied*, 454 U.S. 1031 (1981)).

"Generally, a district court may not consider any material beyond the pleadings in ruling on a Rule 12(b)(6) motion." *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1555 n. 19 (9th Cir. 1990) (citations omitted). However, a court may consider material which is properly submitted as part of the complaint and matters which may be judicially noticed pursuant to Federal Rule of Evidence 201 without converting the motion to dismiss into a motion for summary judgment. *See, e.g., id.; Branch v. Tunnel*, 14 F.3d 449, 454 (9th Cir. 1994).

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<sup>2</sup> In their Motion, Defendants identify Plaintiff's trademark infringement claims as Claims 4-7, and in their Reply, Defendants identify Plaintiff's trademark infringement claims as Claims 1-7. Because the Court has determined that the *Rogers* test does not apply in this case, Defendants' inconsistency as to which claims constitute Plaintiff's trademark claims is irrelevant to the Court's analysis.

<sup>3</sup> In its Opposition, Plaintiff states that "given the split of authority in California about whether unjust enrichment is a cause of action, and the Court's prior rulings on this issue, [Plaintiff] withdraws this claim but continues to seek unjust enrichment as a remedy." Opposition, 24:3-6. Accordingly, the Court **DISMISSES without prejudice** Plaintiff's eighth cause of action for unjust enrichment.



Where a motion to dismiss is granted, a district court must decide whether to grant leave to amend. Generally, the Ninth Circuit has a liberal policy favoring amendments and, thus, leave to amend should be freely granted. See, e.g., *DeSoto v. Yellow Freight System, Inc.*, 957 F.2d 655, 658 (9th Cir. 1992). However, a Court does not need to grant leave to amend in cases where the Court determines that permitting a plaintiff to amend would be an exercise in futility. See, e.g., *Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d 729, 738 (9th Cir. 1987) (“Denial of leave to amend is not an abuse of discretion where the pleadings before the court demonstrate that further amendment would be futile.”).

## 2. The Rogers Test Does Not Apply to Plaintiff’s Trademark Claims

With respect to the *Rogers* test, the Ninth Circuit in *Gordon v. Draper Creative, Inc.*, 909 F.3d 257, 260-61 (9<sup>th</sup> Cir. 2018), held, in relevant part that:

We use the *Rogers* test to balance competing interests at stake when a trademark owner claims that an expressive work infringes on its trademark rights. The test construes the Lanham Act to apply to expressive works “only where the public interest in avoiding consumer confusion outweighs the public interest in free expression.” [875 F.2d] at 999. “[T]he balance will normally support application of the Act, unless the [use of the mark] has no artistic relevance to the underlying work whatsoever, or . . . explicitly misleads [consumers] as to the source or the content of the work.” *Id.*

Under the *Rogers* tests, “[a]n artistic work’s use of a trademark that otherwise would violate the Lanham Act is not actionable ‘unless the use of the mark has no artistic relevance to the underlying work whatsoever, or, if it has some artistic relevance, unless it explicitly misleads as to the source or the content of the work.’” *E.S.S.*, 547 F.3d at 1099 (alternations omitted) (*quoting MCA Records*, 296 F.3d at 902).

In this case, the Court concludes that the *Rogers* test does not apply. The Ninth Circuit only applies the *Rogers* test when “artistic expression is at issue,” and require defendants to make a “threshold legal showing that its allegedly infringing use is part of an expressive work protected by the First Amendment.” *Gordon*, 909 F.3d at 264; see also *Rogers*, 875 F.2d at 999. Although Defendants’ argue that the larger RR/BAYC “project” is an expressive artistic work protected by the First Amendment, Defendants’ sale of what is admittedly a “collection of NFTs that point to the same online digital images as the BAYC collection” (Motion, 6:20-21) is the only conduct at issue in this action and does not constitute an expressive artistic work protected by the First Amendment. In particular, the RR/BAYC NFTs do not express an idea or point of view, but, instead, merely “point to the same online digital images associated with the BAYC collection.” Motion, 18:25-26. Indeed, even Defendants’ token tracker uses an exact copy of Plaintiff’s BAYC Marks without any expressive content. Complaint, ¶¶ 39-40. Similarly, Defendants’ NFT marketplace sales and Ape Market website contain no “artistic expression or critical commentary.” Complaint, ¶¶ 33, 37, 42-45, and 46. For example, the title of Defendants’ Foundation sales page was simply “Bored Ape Yacht Club,” and a Google search of “BAYC Foundation.app” resulted in a link entitled “Bored Ape Yacht Club – Foundation.app” that redirected to Defendants’ Foundation sales page. Complaint, ¶ 37. In addition, Defendants’ Ape Market website used a skull logo identical to Plaintiff’s skull logo and was established “solely to sell their RR/BAYC NFTs alongside authentic



Yuga Labs NFTs.” Complaint, ¶¶ 46 and 55. These are all commercial activities designed to sell infringing products, not expressive artistic speech protected by the First Amendment. Moreover, Defendants concede that the Ape Market contained no speech – artistic or otherwise – because it “never had any content.” Motion, 17:10-11. Indeed, the only claimed artistic expression Defendants point to comes from beyond Plaintiff’s Complaint. See Motion, 6-9. As Plaintiff points out, Defendants’ sale of RR/BAYC NFTs is no more artistic than the sale of a counterfeit handbag, making the *Rogers* test inapplicable. See, e.g., *Tommy Hilfiger Licensing, Inc. v. Nature Labs, LLC*, 221 F. Supp. 2d 410, 415 (S.D.N.Y. 2002).

In addition, even if the Court applied the *Rogers* test, the Court concludes that Defendants’ use of the BAYC Marks is not artistically relevant to Defendants’ “art.” Although there is a low bar for artistic relevance, as Plaintiff points out, it is not infinitely low. For example, in *Twentieth Century Fox Television v. Empire Distribution, Inc.*, 875 F.3d 1192, 1196-97 (9th Cir. 2017), the court found that using the “Empire” mark in the title of a TV show was artistically relevant, but contemplated that it would not be artistically relevant for a “pretextual expressive work meant only to disguise a business profiting from another’s trademark,” which is precisely what Plaintiff has alleged Defendants are doing in this case.

Moreover, even if the Court applied the *Rogers* test and concluded that the BAYC Marks are artistically relevant, the Court concludes that Defendants’ use of the BAYC marks is explicitly misleading. In determining if the use of a mark is explicitly misleading, a court considers two factors: (1) “the degree to which the junior user uses the mark in the same way as the senior user”; and (2) “the extent to which the junior user has added his or her own expressive content to the work beyond the mark itself.” *Gordon*, 909 F.3d at 270-71. In this case, Defendants admit that they have used the BAYC Marks in the same marketplaces to identify and sell NFTs bearing the exact same images underlying the BAYC NFTs and without adding any expressive content. Complaint, ¶¶ 33-47; see also *Gordon*, 909 F.3d at 270-71 (holding that “the potential for explicitly misleading usage is especially strong when the senior user and the junior user both use the mark in similar artistic expressions”).

Furthermore, use of a senior user’s mark is explicitly misleading when the mark is used “as the centerpiece of an expressive work itself, unadorned with any artistic contribution by the junior user, [which] may reflect nothing more than an effort to induce the sale of goods or services by confusion or lessen the distinctiveness and thus the commercial value of a competitor’s mark.” *Id.* at 271 (internal quotations omitted). In this case, Defendants concede they are using the BAYC Marks as the centerpiece of their RR/BAYC NFTs, including using “Bored Ape Yacht Club (BAYC)” to identify the RR/BAYC NFTs that “point to the same online digital images as the BAYC [NFT] collection.” Motion, 6:20-21. Thus, as Plaintiff alleges, Defendants used Plaintiff’s BAYC Marks to make their competing product looked identical to Plaintiff’s product and ensure that the consumer was explicitly misled in the token tracker, which is the place where a consumer should be able to authenticate and verify who created the NFT. See, e.g., Complaint, ¶¶ 2, 33-47, 52. Indeed, although Defendants argue that their disclaimer on the rrbayc.com reservation site that Ripps was the creator of the RR/BAYC NFTs and that the project used “satire and appropriation” to criticize Plaintiff’s BAYC collection negates any confusion, Defendants ignore the fact that they also used other websites to market and sell their RR/BAYC NFTs and those other websites did not include the disclaimer. See, e.g., Complaint, ¶¶ 35-39. Moreover, the fact that Defendants felt obliged to include a disclaimer demonstrates their awareness that their use of the BAYC Marks was



misleading.

### 3. Defendants' Use of the BAYC Marks Does Not Constitute a Fair Use

Even if a valid trademark exists, a competitor may make “fair use” of it. There are two types of fair use. The classic fair-use defense, a statutory defense, “in essence, forbids a trademark registrant to appropriate a descriptive term for his exclusive use and so prevents others from accurately describing a characteristic of their goods.” *New Kids on the Block v. News America Pub., Inc.*, 971 F.2d 302, 306 (9th Cir.1992); see also 15 U.S.C. § 1115(b)(4). Nominative fair use, on the other hand, governs where the defendant uses a trademark to describe the plaintiff's product, rather than its own. *Id.* at 308. In explaining nominative fair use, the Ninth Circuit has held:

We may generalize a class of cases where the use of the trademark does not attempt to capitalize on consumer confusion or to appropriate the cachet of one product for a different one. Such nominative use of a mark—where the only word reasonably available to describe a particular thing is pressed into service—lies outside the strictures of trademark law: Because it does not implicate the source-identification function that is the purpose of trademark, it does not constitute unfair competition; such use is fair because it does not imply sponsorship or endorsement by the trademark holder.

*New Kids*, 971 F.2d at 307–308. To establish a nominative fair-use defense, a defendant must prove the following three elements:

First, the [plaintiff's] product or service in question must be one not readily identifiable without use of the trademark; second, only so much of the mark or marks may be used as is reasonably necessary to identify the [plaintiff's] product or service; and third, the user must do nothing that would, in conjunction with the mark, suggest sponsorship or endorsement by the trademark holder.

*New Kids*, 971 F.2d at 308. This analysis involves multiple questions of fact. See *KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc.*, 408 F.3d 596, 609 (9th Cir.2005) (holding that there were genuine issues of fact that are appropriate for the fact-finder to determine in order to find that the defense of fair use has been established)

In this case, the Court concludes that Defendants' use of the BAYC Marks does not constitute nominative fair use. Defendants are not using the BAYC Marks to sell Plaintiff's BAYC NFTs, but to sell their own competing RR/BAYC NFTs. *New Kids*, 971 F.2d at 308 (holding that nominative fair use does not apply when a defendant uses a mark to refer “to something other than the plaintiff's product”); *Toyota Motor Sales, U.S.A., Inc. v. Tabari*, 610 F.3d 1171, 1177 (9th Cir. 2010) (holding that nominative fair use allows for “truthful use of a mark, such as when a Lexus dealer uses the Lexus mark to sell Lexus vehicles at [lexusbroker.com](http://lexusbroker.com)). In addition, Defendants have failed to establish all the elements of the nominative fair use defense. For example, Defendants frequently used the entirety of the BAYC Marks without modification, including the “visual trappings” of Plaintiff's brand. *Toyota Motor Sales*, 610 F.3d at 1181. Moreover, Defendants' use of the BAYC Marks “prominently and boldly,” to market their RR/BAYC NFTs



“suggest[s] sponsorship.” *Brother Recs., Inc. v. Jardine*, 318 F.3d 900, 908 (9th Cir. 2003).

#### 4. Plaintiff’s Other Claims Survive Defendants’ Motion to Dismiss

In their Motion to Dismiss, Defendants argue that Plaintiff has failed to sufficiently allege the other, non-trademark federal and state causes of action alleged the Complaint. The Court concludes that the issues raised by Defendants with respect to Plaintiff’s non-trademark causes of action in the Complaint are more appropriately resolved on a motion for summary judgment.

Accordingly, Defendant’s Motion to Dismiss pursuant to Rule 12(b)(6) is denied.

#### B. Defendants’ Anti-SLAPP Motion

In their Anti-SLAPP Motion, Defendants argue that Plaintiff’s state law causes of action<sup>4</sup> should be stricken under California’s anti-SLAPP statute because: (1) Defendants’ RR/BAYC NFTs are protected speech made in connection with a public issue; and (2) the Complaint does not allege legally sufficient facts to support those causes of action. Specifically, Defendants argue that their RR/BAYC NFTs are performance and appropriation art that express criticism against Plaintiff’s use of racists, neo-Nazi, and alt-right dog whistles. In its Opposition, Plaintiff argues that Defendants’ RR/BAYC NFTs are not protected speech and Plaintiff has plausibly alleged its state law causes of action.

##### 1. Legal Standard

“California law provides for the pre-trial dismissal of certain actions, known as Strategic Lawsuits Against Public Participation, or SLAPPs, that ‘masquerade as ordinary lawsuits’ but are intended to deter ordinary people ‘from exercising their political or legal rights or to punish them for doing so.’” *Makaeff v. Trump Univ., LLC*, 715 F.3d 254, 261 (9th Cir. 2013) (quoting *Batzel v. Smith*, 333 F.3d 1018, 1024 (9th Cir. 2003)) (internal quotation marks omitted). Specifically, California’s anti-SLAPP statute provides:

A cause of action against a person arising from any act of that person in furtherance of the person’s right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.

Cal. Civ. Proc. Code § 425.16(b)(1).

The Court must evaluate an anti-SLAPP motion in two steps. First, the defendant moving to strike must make “a threshold showing . . . that the act or acts of which the plaintiff complains were taken ‘in furtherance of the [defendant’s] right of petition or free speech under the United States or California Constitution in connection with a public issue,’ as defined in [subsection (e) of]

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<sup>4</sup> California’s Anti-SLAPP statute “does not apply to federal law causes of action.” *Hilton v. Hallmark Cards*, 599 F.3d 894, 901 (9th Cir. 2010).



the statute.” *Hilton v. Hallmark Cards*, 599 F.3d 894, 903 (9th Cir. 2010) (quoting Cal. Civ. Proc. Code § 425.16(b)(1)). Second, “[i]f the court finds that such a showing has been made, it must then determine whether the plaintiff has demonstrated a probability of prevailing on the claim.” *Navellier v. Sletten*, 29 Cal. 4th 82 (2002); see also *U.S. ex rel. Newsham v. Lockheed Missiles & Space Co., Inc.*, 190 F.3d 963, 971 (9th Cir. 1999). “Put another way, the plaintiff must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited.” *Wilson v. Parker, Covert & Chidester*, 28 Cal. 4th 811, 821 (2002) (internal quotation marks omitted); *Batzel v. Smith*, 333 F.3d 1018, 1024 (9th Cir. 2003). “[T]hough the court does not weigh the credibility or comparative probative strength of competing evidence, it should grant the motion if, as a matter of law, the defendant’s evidence supporting the motion defeats the plaintiff’s attempt to establish evidentiary support for the claim.” *Wilson*, 28 Cal. 4th at 821; Cal. Civ. Proc. Code § 425.16(b)(2). Thus, “[t]he statute ‘subjects to potential dismissal only those actions in which the plaintiff cannot state and substantiate a legally sufficient claim.’” *Navellier v. Sletten*, 29 Cal. 4th 82, 92 (2002). “Only a cause of action that satisfies both prongs of the anti-SLAPP statute – *i.e.*, that arises from protected speech or petitioning and lacks even minimal merit – is a SLAPP, subject to being stricken under the statute.” *Id.* at 89.

The anti-SLAPP motion is available in federal court. *Thomas v. Fry’s Elec., Inc.*, 400 F.3d 1206 (9th Cir. 2005) (per curiam). Generally, defendants sued in federal court are entitled to bring anti-SLAPP motions to strike state law claims. *Verizon Del. Inc. v. Covad Communications Co.*, 377 F.3d 1081, 1091 (9th Cir. 2004).

## **2. Defendants Failed to Demonstrate That Plaintiff’s Claims “Arise From” Defendants’ Protected Speech**

In order to prevail in on their anti-SLAPP motion, Defendants must make a prima facie showing that Plaintiff’s claims “arise from” an “act in furtherance of [their] right of petition or free speech.” Cal. Civ. Proc. Code § 425.16(b) and (e); *Mindys Cosmetics, Inc. v. Dakar*, 611 F.3d 590, 595 (9th Cir. 2010). California courts have “interpreted the anti-SLAPP statute’s ‘arising from’ language to mean that a claim is based on whatever conduct constitutes the ‘specific act[ ] of wrongdoing’ that gives rise to the claim.” *Jordan-Benel v. Universal City Studios, Inc.*, 859 F.3d 1184, 1190 (9th Cir. 2017) (alteration in original) (quoting *Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP*, 133 Cal. App. 4th 658, 671 (2005)). “Put another way, a court focuses its anti-SLAPP analysis on the specific conduct that the claim is challenging.” *Id.* (citing *Wang v. Wal-Mart Real Estate Bus. Trust*, 153 Cal. App. 4th 790 (2007)).

In their Motion, Defendants argue repeatedly that they created the RR/BAYC “project” with the specific aim of publicizing and criticizing Plaintiff’s use of racist, neo-Nazi, and alt-right dog whistles. However, it is not enough for Defendants to simply state that they engaged in allegedly protected speech that is relevant to Plaintiff’s claim to prevail on their anti-SLAPP motion. See, *e.g.*, *Jordan-Benel v. Universal City Studios, Inc.*, 859 F.3d 1184, 1190 (9th Cir. 2017) (“[E]ven if a defendant engages in free speech activity that is relevant to a claim, that does not necessarily mean such activity is the basis for the claim”). Instead, Defendant’s allegedly protected speech must form at least part of the basis of Plaintiff’s claims. *Navellier*, 29 Cal. 4th 82, 89 (holding “that a cause of action arguably may have been ‘triggered’ by protected activity does not entail that it is one arising from such . . . [T]he critical consideration is whether the cause of action is based on the



defendant's protected free speech or petitioning activity"); *City of Cotati v. Cashman*, 29 Cal. 4th 69 (2002) ("[T]he mere fact an action was filed after protected activity took place does not mean it arose from that activity").

In this case, the Court concludes that Plaintiff's claims do not arise out of Defendants' attempts to publicize and criticize Plaintiff's purported use of racist, neo-Nazi, or alt-right dog whistles. Indeed, despite Ripps's public criticism of Plaintiff's use of purportedly racist, neo-Nazi, and alt-right dog whistles since approximately November 2021 through Twitter, Instagram, podcasts, and the website gordongoner.com, Plaintiff has not brought claims against Defendants for defamation, slander, or libel. Instead, Plaintiff's claims are limited to and arise out of Defendant's unauthorized use of the BAYC Marks for commercial purposes. *Renewable Res. Coal., Inc. v. Pebble Mines Corp.*, 218 Cal. App. 4th 384 (2013) (explaining that "the gravamen of an action is the allegedly wrongful and injury-producing conduct that provides the foundation for the claims"); *Wang v. Wal-Mart Real Estate Bus. Trust*, 153 Cal. App. 4th 790 (2007) (holding that anti-SLAPP did not apply to a claim for breach of contract because "[t]he overall thrust of the complaint challenge[d] the manner in which the parties privately dealt with one another, on both contractual and tort theories, and d[id] not principally challenge the collateral activity of pursuing governmental approvals"). As Plaintiff makes clear in its Complaint and its Opposition, its claims are limited to Defendants' heavily commercial use of the BAYC Marks to sell the same product – NFTs – with the same image (Defendants admit that the RR/BAYC NFTs use pointers to the same ape cartoon images as the BAYC collection) to the same customers in the same markets as Plaintiff. Therefore, the Court concludes that Defendants have failed to make a prima facie showing that Plaintiff's claims "arise from" an "act in furtherance of [their] right of petition or free speech."

Accordingly, Defendants' Anti-SLAPP Motion is denied.

#### IV. Conclusion

For all the foregoing reasons, Defendants' Motion is **DENIED in part** and **GRANTED in part**. Defendants' Anti-SLAPP Motion is **DENIED**. Defendants' Motion to Dismiss is **DENIED**, except with respect to Plaintiff's eighth cause of action for unjust enrichment. Defendants' Motion to Dismiss is **GRANTED** with respect to Plaintiff's eighth cause of action for unjust enrichment, and that cause of action is **DISMISSED without prejudice**.

IT IS SO ORDERED.



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*Ryder Ripps and Jeremy Cahen*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

Yuga Labs, Inc.,

Plaintiff,

v.

Ryder Ripps, Jeremy Cahen, Does 1-10;

Defendants.

Case No. 2:22-cv-04355-JFW-JEM

**DECLARATION OF RYDER RIPPS**

Filed Pursuant to Court Order (Dkt. 44).  
Hearing Date: Nov. 7, 2022, at 1:30  
p.m., Pursuant to Standing Order ¶ 5(a)  
Judge: Hon. John F. Walter



**DECLARATION OF RYDER RIPPS IN SUPPORT OF MR. RIPPS AND MR. CAHEN'S ANTI-SLAPP MOTION TO STRIKE AND MOTION TO DISMISS**

I, Ryder Ripps, declare as follows:

1. I am a visual artist and creative director whose multi-disciplinary practice aims to dismantle the porous boundaries between art, the internet, and commerce, agitating the structure of the attention economy and revealing the flow of power in online relationships.

2. My work often examines popular culture and highlights the effects of technology on society.

3. Through my creative content company, OKFocus, I have led creative direction and design projects for companies like Nike and Red Bull, and developed branding for products such as Soylent meal replacements. I have also worked closely with Kanye West in connection with his creative agency *Donda*, and have created art and executed creative direction with many leading musicians such as Grimes, James Blake, MIA, Pop Smoke, Pusha T, Tame Impala, and Travis Scott.

4. Beginning at the end of 2021, I started researching Yuga Labs, Inc. ("Yuga") and their use of neo-Nazi symbolism, alt-right dog whistles, and racist imagery in their company and in the Bored Ape Yacht Club ("BAYC") non-fungible tokens ("NFTs").

5. I began posting on social media, Twitter and Instagram, going on podcasts, and speaking to investigative journalists to expose the misconduct I had found and to start a public discussion of Yuga's offensive material. Additionally, in January 2022, I created the website <https://gordongoner.com> to compile the information I found for the public to view and discuss.

6. I also spoke against the number of celebrities that promoted BAYC NFTs. It is my understanding that Yuga used the following celebrities to promote the BAYC collection and their neo-Nazi symbolism: Tom Brady, Madonna, Kevin Hart,



1 Jimmy Fallon, Shaquille O’Neal, Mark Cuban, Justin Bieber, Stephen Curry,  
2 Eminem, Serena Williams, Steve Aoki, LaMelo Ball, and Snoop Dog. It is also my  
3 understanding that the following brands have worked with Yuga: Adidas, Universal  
4 Music Group, Arizona Iced Tea, Gucci, Major League Soccer, and Old Navy.

5 7. In December 2021, Guy Oseary, Yuga’s talent manager, called me to  
6 discuss the public statements I had made about Yuga’s neo-Nazi symbolism. On the  
7 call, Oseary made a series of vague threats, saying “I can be a nice guy or I can be a  
8 not nice guy” and that I would be better off being friends with Yuga. Oseary  
9 suggested that he understood Yuga used racist dog whistles by stating “who am I to  
10 judge someone’s art.” Oseary stated that he would help me if I kept silent and that he  
11 could make my life difficult if I did not cooperate. Oseary also offered to introduce  
12 me to Kanye West, not realizing that I already worked with him, and later added me to  
13 a text message thread with West’s manager. When I had not posted anything new  
14 criticizing Yuga for about one week and unpinned a tweet criticizing Yuga, Oseary  
15 left me a voice memo thanking me for my silence.

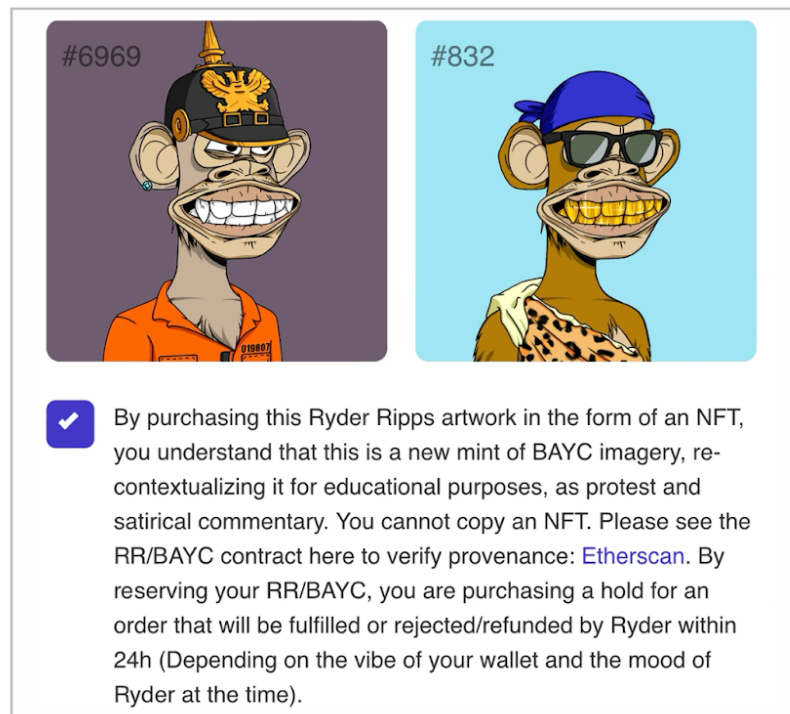
16 8. On May 13, 2022, I began creating the artistic project, RR/BAYC. The  
17 project has grown to include a collection of NFTs, each of which uses a unique  
18 blockchain entry but includes a link to the same digital image as the corresponding  
19 BAYC NFT. The purpose of the project was to (1) bring attention to Yuga’s use of  
20 racist messages and imagery, (2) expose Yuga’s use of celebrities and popular brands  
21 to disseminate offensive material, (3) create social pressure demanding that Yuga take  
22 responsibility for its actions, and (4) educate the public about the nature of NFTs.

23 9. On May 14, 2022, I tweeted that I would create one RR/BAYC NFT for  
24 anyone who requested it for the price of 0.1 Ethereum. Users that followed my social  
25 media posts regarding Yuga’s misconduct would then commission specific NFTs by  
26 sending requests on Twitter.



10. Demand for the RR/BAYC NFTs grew, and so, I created a website to sell the art (<https://rrbayc.com>). The website includes a description of the project, noting that “[t]hrough the process of ‘re-minting’, the original BAYC images are recontextualized – illuminating truths about their origins and meanings as well as the nature of Web3 – the power of NFTs to change meaning, establish provenance and evade censorship.” The website also explains that “RR/BAYC uses satire and appropriation to protest and educate people regarding The Bored Ape Yacht Club and the framework of NFTs. The work is an extension of an in the spirit of other artists who have worked within the field of **appropriation art**.”

11. Nearly all the RR/BAYC NFTs I sold where through the rrbayc.com website. The website required every purchaser to acknowledge the following disclaimer stating that I created RR/BAYC NFTs as works expressing protest and satirical commentary.





1           12. I did not sell any RR/BAYC NFTs on rrbayc.com without receiving an  
2 acknowledgement of the disclaimer.

3           13. During the time I was selling RR/BAYC NFTs, I continued to post  
4 frequently on social media about RR/BAYC's satirical vision and how I wanted to use  
5 the art to protest Yuga and educate the public on Yuga's misconduct.

6           14. To the best of my knowledge, no one has purchased an RR/BAYC NFT  
7 mistakenly thinking that it was a BAYC NFT.

8           15. Attached hereto as Exhibit 1, is a list of various NFT projects that use the  
9 BAYC NFT images to make a profit off of the BAYC NFT brand without expressing  
10 any artistic or critical commentary regarding Yuga. To the best of my knowledge,  
11 Yuga has not commenced litigation against any of them.

12           I declare under penalty of perjury under the laws of the United States of  
13 America that the foregoing is true and correct.

14           Executed in California on August 31, 2022.

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21           Ryder Ripps  
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**ER19 -5-**



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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

Yuga Labs, Inc.,  
  
Plaintiff,  
  
v.  
  
Ryder Ripps, Jeremy Cahen, Does 1-10;

Defendants.

Case No. 2:22-cv-04355-JFW-JEM

**DECLARATION OF LOUIS W.  
TOMPROS IN SUPPORT OF MR.  
RIPPS AND MR. CAHEN'S ANTI-  
SLAPP MOTION TO STRIKE AND  
MOTION TO DISMISS**

Filed Pursuant to Court Order (Dkt. 44).  
Hearing Date: Nov. 7, 2022, at 1:30  
p.m., Pursuant to Standing Order ¶ 5(a)  
Judge: Hon. John F. Walter



1 I, Louis W. Tompros, declare as follows:

2 1. I am an attorney with the law firm of Wilmer Cutler Pickering Hale and  
3 Dorr LLP, located at 60 State Street, Boston Massachusetts, 02109, counsel for  
4 Defendants Ryder Ripps and Jeremy Cahen. I am licensed to practice law in the State  
5 of Massachusetts and have been granted permission to participate in this litigation on  
6 behalf of Mr. Ripps and Mr. Cahen (Dkt. 18). I have personal knowledge of the facts  
7 set forth herein and with the proceedings in this case, and if called to testify as a witness  
8 thereto, I would do so competently under oath.

9 2. A true and correct copy of excerpts from the website <https://rrbayc.com> is  
10 attached hereto as Exhibit 1.

11 3. A true and correct copy of the website <https://gordongoner.com> is attached  
12 hereto as Exhibit 2.

13 4. A true and correct copy of the *New York Times* article “Ryder Ripps: An  
14 Artist of the Internet” is attached hereto as Exhibit 3.

15 5. A true and correct copy of the *Forbes* profile for Ryder Ripps including  
16 his listing under “30 under 30 – Art & Style (2016)” is attached hereto as Exhibit 4.

17 6. A true and correct copy of a review of Mr. Ripps’s *Ho* exhibition in *The*  
18 *Brooklyn Rail* is attached hereto as Exhibit 5.

19 7. A true and correct copy of Postmasters Gallery’s online listing for Mr.  
20 Ripps’s *Ho* exhibition is attached hereto as Exhibit 6.

21 8. A true and correct copy of a review of Mr. Ripps’s *Alone Together*  
22 installation in the publication *Complex* is attached hereto as Exhibit 7.

23 9. A true and correct copy of the *Yahoo! Finance* article “CryptoPunks Get  
24 Punked” is attached hereto as Exhibit 8.

25 10. A true and correct copy of the Anti-Defamation League’s webpage for the  
26 hate symbol 18 is attached hereto as Exhibit 9.



1 11. A true and correct copy of “Neoeconfascism: The Example of the United  
2 States” published in the *Journal for the Study of Radicalism*, Vol. 14, No. 2, is attached  
3 hereto as Exhibit 10.

4 12. A true and correct copy of “The Secret Histories of the Radical Right on  
5 4chan/pol” is attached hereto as Exhibit 11.

6 13. A true and correct copy of *The Marginalia Review* article “The Alt-Right  
7 Apocalypse” is attached hereto as Exhibit 12.

8 14. A true and correct copy of Richard Spencer’s July 31, 2022, 5:54 p.m.  
9 Twitter post is attached hereto as Exhibit 13.

10 15. A true and correct copy of Frederick Brennan’s August 22, 2022, 2:22 p.m.  
11 Twitter post is attached hereto as Exhibit 14.

12 16. A true and correct copy of two images showing direct messages between  
13 Richard Spencer and Frederick Brennan from Frederick Brennan’s August 22, 2022,  
14 2:22 post is attached hereto as Exhibit 15.

15 17. A true and correct copy of the Wave Ninja article “Thousands of Lies:  
16 Wylie Aronow Acknowledges Longtime Friendship with ‘Alt-Write’ Publisher” is  
17 attached hereto as Exhibit 16.

18 18. A true and correct copy of the *IdentifyEvropa* article “Matthew Robert  
19 Warner: From GamerGate to Identity Evropa” is attached hereto as Exhibit 17.

20 19. A true and correct copy of the GH Records page for the “Surf The Kali  
21 Yuga – T-Shirt” is attached hereto as Exhibit 18.

22 20. A true and correct copy of compiled Twitter posts criticizing Yuga Labs,  
23 Inc.’s use of simianization is attached hereto as Exhibit 19.

24 21. A true and correct copy of the *Input Magazine* article “Bored Ape Yacht  
25 Club finally responds to neo-Nazism accusations” is attached hereto as Exhibit 20.



22. A true and correct copy of the OpenSea listing for BAYC #3721 is attached hereto as Exhibit 21.

23. A true and correct copy of the OpenSea listing for BAYC #6281 is attached hereto as Exhibit 22.

24. A true and correct copy of the mirror.xyz page displaying metadata provenance information associated with “Otherdeeds” in Yuga Labs, Inc.’s metaverse “Otherside” is attached hereto as Exhibit 23.

25. A true and correct copy of the *CoinDesk* article “The Bored Ape Founders Haven’t Yet Joined the Yacht Club: How an NFT juggernaut emerged from a grimy bar in Miami” is attached hereto as Exhibit 24.

26. A true and correct copy of the web.archive.org page displaying Mr. Ripps’s May 14, 2022, 9:52 p.m. Twitter post is attached hereto as Exhibit 25.

27. A true and correct copy of the *Boardroom* article “The All-Star Owners of the Bored Ape Yacht Club” is attached hereto as Exhibit 26.

28. A true and correct copy of Mr. Ripps’s May 14, 2022, 7:34 p.m. Twitter post is attached hereto as Exhibit 27.

29. A true and correct copy of Mr. Ripps’s May 15, 2022, 1:21 a.m. Twitter post is attached hereto as Exhibit 28.

30. A true and correct copy of *The Coin Republic* article “Bored Ape yacht Club(BAYC) Propagating NFT Racism?” is attached hereto as Exhibit 29.

31. A true and correct copy of the *Decrypt* article “Bored Ape Yacht Club’s Creators Declared War on a Vocal Critic. Could it Backfire?” is attached hereto as Exhibit 30.

32. A true and correct copy of *The Manual* article “Bored Ape Yacht Club Wants Ryder Ripps to Cease and Desist: Artists Claims RR/BAYC NFTs Educational and Satiric” is attached hereto as Exhibit 31.



33. A true and correct copy of the *Input Magazine* article “BAYC caught in a public opinion storm over Nazi club NFT racism” is attached hereto as Exhibit 32.

34. A true and correct copy of the *Cryptoslave* article “BAYC founders call Nazi conspiracy video ‘crazy disinformation campaign’” is attached hereto as Exhibit 33.

35. A true and correct copy of *The Defiant* article “Yuga Fires Back at #BurnBayc Creator” is attached hereto as Exhibit 34.

36. A true and correct copy of the apemarket.com front webpage is attached hereto as Exhibit 35.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed in Massachusetts on August 31, 2022.

/s/ *Louis W. Tompros*

Louis W. Tompros



# EXHIBIT 1



8/4/22, 3:07 PM

RR/BAYC

Connect



RR/BAYC

On June 14th, 2021 I re-minted **CryptoPunk #3100** on the Ethereum Blockchain, an image whose original token sold for a record \$7.58M USD on March 11th, 2021.

The #3100 mint tested the boundaries and meaning of digital images within a new paradigm of IP law, copyright, computer generated images and Non-Fungible Tokens. The work was delisted from the platform Foundation after I received a **Digital Millennium Copyright Act (DMCA) notice** from Larva Labs. I successfully countered the DMCA and #3100 was subsequently re-listed, sending a strong message that **you can't copy an NFT**.

My recent NFT work has been centered around provocations and inquiries regarding the nature of NFT, provenance and digital ownership. Provenance has always been the definitive aspect in establishing an artwork's meaning and value. The technology of NFTs is widely misunderstood, but in its greatest form, it enables an immutable trace of origin in time to the publisher/creator of a digital work.

Since December of 2021, I have been investigating the most prominent NFT project, Bored Ape Yacht Club and its creators, Yuga Labs. Through months of intensive research, myself and other community members have discovered extensive connections between BAYC and subversive internet nazi troll culture. You can read the findings at <http://GordonGoner.com>, warning this website contains sensitive content not suitable for children.

On Wednesday, May 13th 2022, I began creating new work in the form of NFTs, based on the BAYC images. Through the process of "re-minting", the original BAYC images are recontextualized – illuminating truths about their origins and meanings as well as the nature of Web3 – the power of NFTs to change meaning, establish provenance and evade censorship.

RR/BAYC uses satire and appropriation to protest and educate people regarding The Bored Ape Yacht Club and the framework of NFTs. The work is an extension of and in the spirit of other artists who have worked within the field of **appropriation art**.

This collection was delisted from the Foundation marketplace on May 17th, 2022 when Yuga Labs sent a DMCA takedown request. Two hours later Yuga Labs **formally capitulated, withdrawing their DMCA request**. The current terms of ownership set forth by Yuga Labs to BAYC token holders are unclear and do not meet current copyright standards. Clearly defining what we are buying when we purchase an NFT is one of the primary goals



8/4/22, 3:07 PM

RR/BAYC

of this work.

Please have a look at the works available and reserve what you like.

If you have any questions feel free to contact me at [rrbayc@protonmail.com](mailto:rrbayc@protonmail.com).

- Ryder Ripps

### Reserve Apes (0 AVAILABLE)

Sold Out

Enter Ape Id

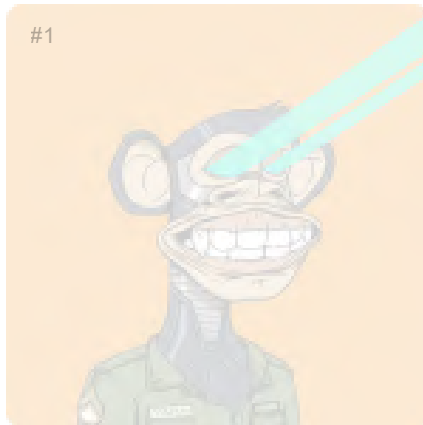
Select Random

Shuffle Apes

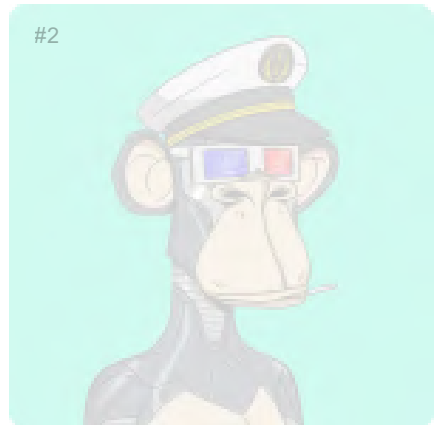
#0



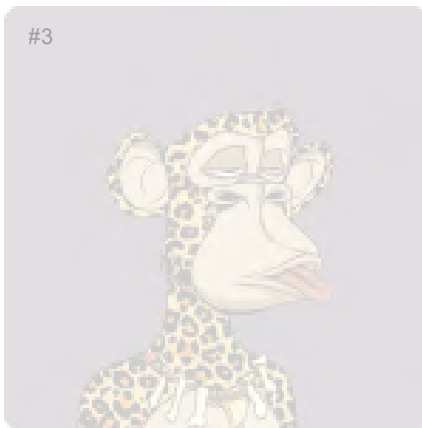
#1



#2



#3



#4



#5



#6

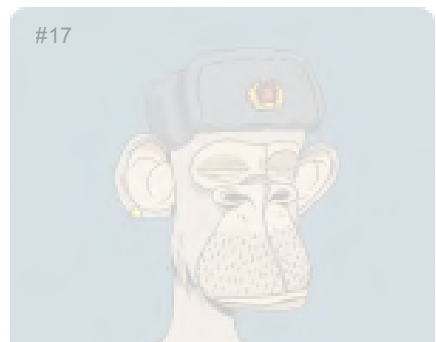
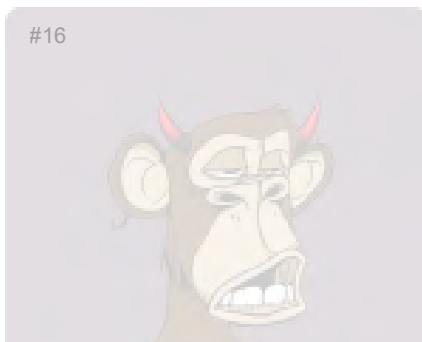
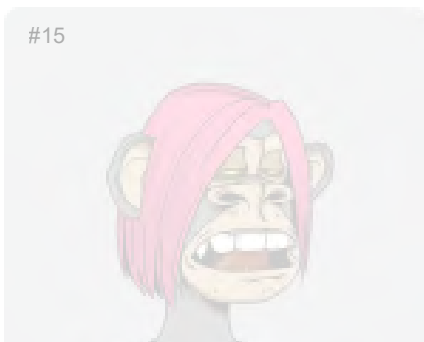
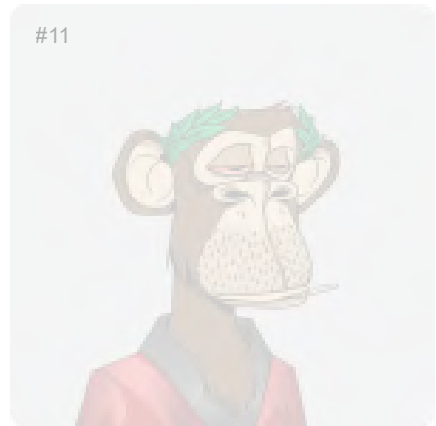
#7

#8



8/4/22, 3:07 PM

RR/BAYC





# EXHIBIT 2



8/2/22, 5:56 PM

Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles

Tradução: [pt-BR](#)

## Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles



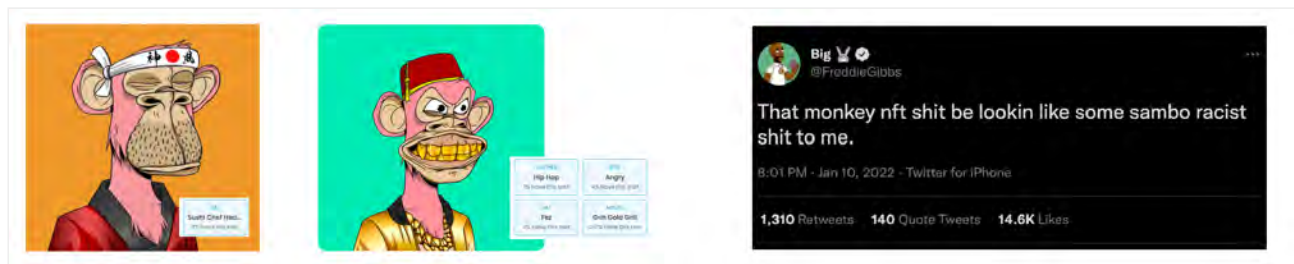
[Bored Ape Yacht Club](#) (BAYC) is a series of 10,000 anthropomorphized ape cartoons sold as NFTs. Since the project's launch in April 2021 the value has amassed to over \$5B USD, and spawned many similar projects. The apes have various clothing and other traits, most traits are racially oriented or involve some type of military history. The act of disparaging someone by comparing them to an ape/monkey goes back hundreds of years. There is a word for it, "[simianization](#)." There are many examples throughout history, its purpose is to justify violence and racism against another group by dehumanizing them, comparing them to apes. Simianization has occurred with various ethnic groups such as Jewish, Irish and Asian people, but it is most predominantly used as a tactic against Black people. You might think simianization is something of a past era, but racists are still comparing Black people to monkeys today, such as the trend in Europe of [throwing bananas](#) at Black soccer players. At first glance, the apes in Bored Ape Yacht Club might seem innocent, but there are several traits that indicate that they are intended to represent Black people and Asian people, such as the gold chains trait called "[hip hop](#)," the gold/diamond grills trait or the



8/2/22, 5:56 PM

Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles

Kamikaze headband from fascist Imperial Japan, offensively labeled "sushi chef headband".

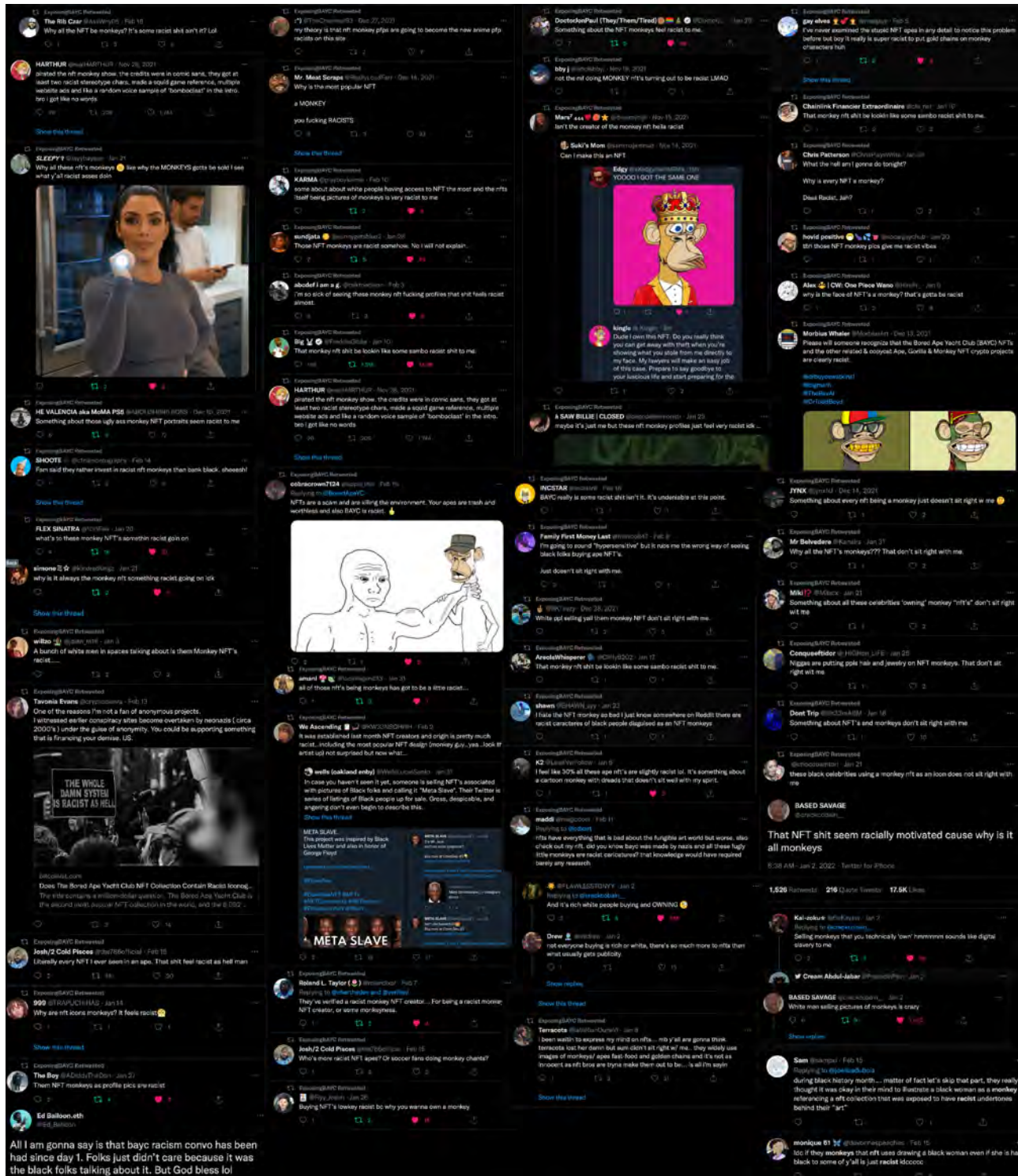


Myself and many others have noticed the issues with the images, it is clearly simianization. If you run a Twitter search you can find people have been talking about this since the project started.



8/2/22, 5:56 PM

Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles



Knowing the [history](#) of alt-right/4chan types in crypto, myself and others started looking into it. We found what we believe to be definitive evidence that the group behind the



8/2/22, 5:56 PM

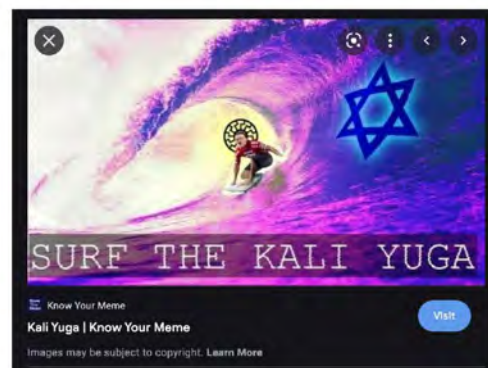
Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles

creation of these images are intentionally embedding Nazi [dog whistles](#) throughout their project. Here is how we have arrived at this conclusion –



1. The BAYC logo looks very similar to the [Nazi Totenkopf emblem](#), even containing the same amount of teeth in the skull, 18, a number the [ADL has identified](#) to mean Adolf Hitler. The logos also both have a ragged edge, something very uncommon in other circular emblems.

2. The project was launched by a company called [Yuga Labs](#), the [Kali Yuga](#) is a [popular](#) element of [alt right/traditionalist ideology](#) and Yuga Labs has gone to the effort to embed the traditionalist philosopher's name, [René Guénon](#), who is credited for bringing Kali Yuga into western thought and an [alt-right icon](#), [inside one of their puzzles](#). Also embedded is the word "macaque", a known [racial slur](#).

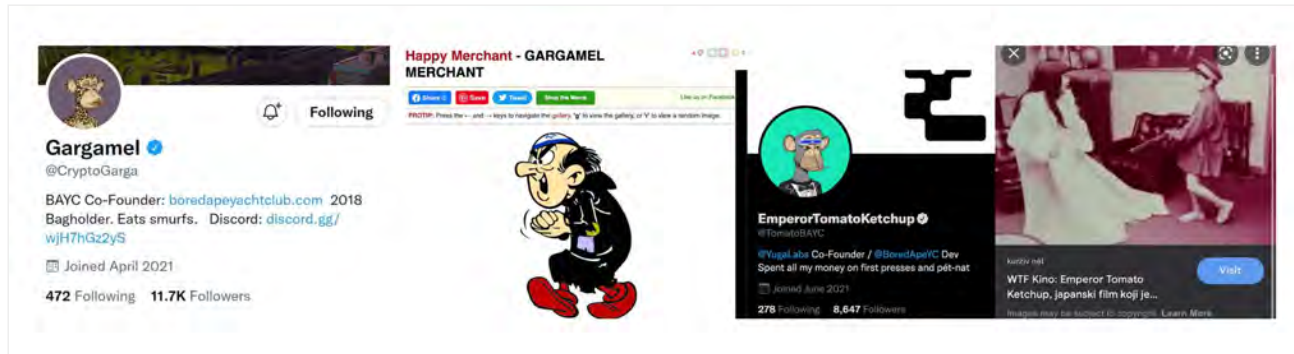




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Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles

3. One of the co-founders goes by [Gargamel](#), a character from the Smurfs who is [acknowledged](#) as an antisemitic [depiction](#) of a Jewish person, also a common term used on [4chan](#) to discuss Jews. Since I've brought this up, he has gone through the effort to try to [hide it](#). Gargamel's real name is Greg Solano, a writer who [wrote his undergraduate thesis on fiction about nazis](#), and expressed interest in incorporating a character like Hans Reiter (SS officer) into [his writing](#).



4. Another co-founder, [Emperor Tomato Ketchup](#), has the same name as an explicit [film](#) from 1971 that features [scenes](#) of a boy in a fascist uniform raping an adult bride. The original film is [banned](#) in the US and [other countries](#) on grounds of child pornography.



8/2/22, 5:56 PM

Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles

[42] Mr. Way testified that Officer Purchas told him the films were “fine” and that he would not be pressing charges. He testified that Officer Purchas said, “It’s just a bunch of naked boys running around on a beach or in a sauna.”

[43] Mr. Way says Officer Purchas showed him a film he was selling called, *Emperor Tomato Ketchup* and focused on two parts of the film. Mr. Way testified that one part showed a naked boy slapping and massaging a woman’s breasts. The other part showed two naked adult women massaging the boy’s back and running a feather over his naked body including penis.

<https://www.canlii.org/en/on/onsc/doc/2015/2015onsc3080/2015onsc3080.html?searchUrlHash=AAAAQAZUi4gdiBXYXksIDlwMTUgT05TQyA...>

11/22/2017

CanLII - 2015 ONSC 3080 (CanLII)

[44] Mr. Way testified that *Emperor Tomato Ketchup* was the line not to be crossed. Mr. Way says he understood that as long as he fell under this threshold, he would be not be breaking the law and he relied on this advice.

[45] The film *Emperor Tomato Ketchup* is no longer available.



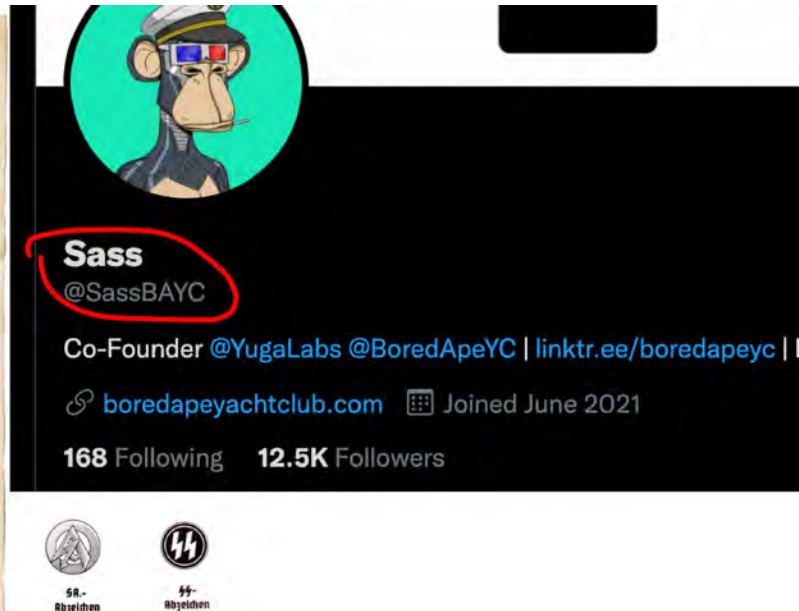
5. Another co-founder goes by [Gordon Goner](#), [says](#) he picked the name because it sounds like "Joey Ramone".. being that the group [uses anagrams](#) and that it doesn't at all sound like Joey Ramone, maybe this is an anagram. Sure enough its a whole word anagram for, Drongo (Gordon) Negro (Goner), Drongo is common 4chan and Australian [slang for stupid](#), its in the dictionary as such, [second definition](#).. So, his name means "Stupid Negro." Writers [often](#) use anagrams for character names and



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Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles

they are also often incorporated within [videogames](#), some of which Yuga Labs have [stated](#) they play. Gordon Goners' real name, Wylie Aronow, was disclosed early February, there is barely anything online about him. The one person I could find who knows him says ["I have no doubt that they're cryptofascists"](#).



6. The final co-founder goes by [SASS](#) – [SA or Sturmabteilung](#) was the Nazi Party's original paramilitary wing and [SS or Schutzstaffel](#) was the primary paramilitary Nazi wing. So his name, SASS, combines the two primary Nazi military divisions.

7. Their [video game](#) as well as [Rolling Stone cover](#) features rats with gold, this is a [common](#) anti-semitic association. The video game also features bananas arranged to look like [swastikas](#).

8. On Yuga Labs website [they state](#) that another NFT series, The Hashmasks, was a great inspiration. [The Hashmasks](#) are made by a Swiss company, [Suum Cuique Labs](#), a phrase used by Nazis on the gate of the Buchenwald [concentration camp](#). The phrase was also used on the face of [Prussian Helmets](#) that are in the [BAYC collection](#). Yuga Labs is inspired by Suum Cuique Labs to the extent that even their Terms of Service was [taken](#) from Suum Cuique Labs.



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Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles



9. The symbols, content and attitude in the images themselves have [neo-nazi ideology](#) and war references, such as [this](#) "Prussian Helmet". Many of the more specific traits are shared with 4chan pepe memes.



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Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles

10. In an interview co-founder Gargamel [admits that nothing in the collection "is random"](#), that there is hidden encrypted meaning and referenced ["iceberg theory"](#). In the same interview, Gargamel cites a Ludwig Wittgenstein quote, "let the unutterable be conveyed unutterably," seems strange if they are just cartoon apes, no? What are their other meanings? They've yet to explain and seem very evasive. The alt-right [is known](#) for this tactic of hidden images and innuendo. See full Gargamel quote:

**Gargamel:** Ever since the Bored Ape Yacht Club, we've seen like 1,000 different avatar collections come up, and a lot of them are really cool. But what we think was special – and what people could kind of read on top of ours – is that we didn't just throw 3D glasses onto apes. And we didn't have a long essay on what exactly what this was. But we knew what it was. It's like Wittgenstein's "let the unutterable be conveyed unutterably," or Hemingway's [iceberg theory](#). We knew all about what this world was, and why these apes are this way. And that somebody else might get a little tingle on their neck looking at it, thinking, "Yeah, this is kind of different. This isn't just random."

11. Here is a recent [4chan thread](#) where users are acknowledging this.

12. The Yuga Labs project, ["The Otherside"](#), as well as [Bored Ape Yacht Club](#) were both officially launched on April 30th, the date Hitler died.

13. The Otherside virtual land plot held by BAYC co-founder Emperor Tomato ketchup, has a character named ["Stone Hole Jackson,"](#) which is a reference to the Confederate General, "Stonewall Jackson."

---

Why does it matter? To me it's a terrible example to other creators, setting a bad tone for future generations of art – we have already seen it morph into [increasingly racist offshoots](#). Similar to why you don't teach children to say cuss words. Beyond that, I am personally offended by the Nazi references and find the act of covertly incepting an uninformed audience vile. There is a true danger in dehumanizing people, equating them to monkeys, it [justifies](#) violence and racism according to [much research](#).

---

What can you do? Spread the word, stand up against BAYC, comment on influencers pages, tell your friends, alert the press. The owners of the apes are not the problem, covertly infiltrating culture with hate to an unaware audience is what's wrong and evil.



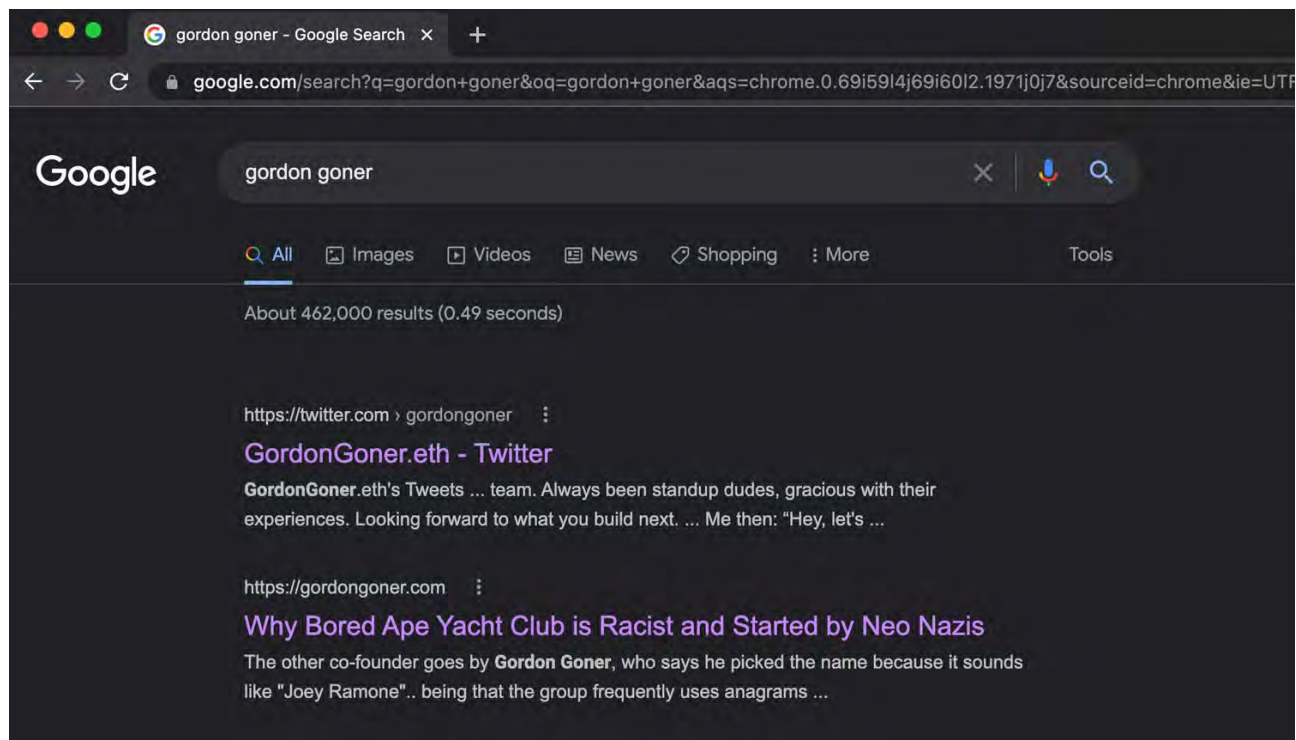
8/2/22, 5:56 PM

Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles

The information in this has been gathered by over 10 people, I have dedicated a lot of time to compiling and researching this and as an [expert in the field](#) of internet culture, [working professionally](#) in media/design and internet culture for 15 years, a B.A. in Media Studies, with [many credentials](#), I, and many others, feel very confident these accusations are founded.

-Ryder Ripps, Jan. 2022

P.S. – This domain name was selected to help with SEO, so when people search the co-founders' name this info comes up.



**UPDATE: Some of this research has been compiled by YouTube creator, Philion, into a documentary please see here –**



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Bored Ape Yacht Club is Racist and Contains Nazi Dog Whistles





# EXHIBIT 3



8/2/22, 5:40 PM

Ryder Ripps: An Artist of the Internet - The New York Times

**The New York Times**<https://www.nytimes.com/2014/07/10/fashion/ryder-ripps-an-artist-of-the-internet.html>

# Ryder Ripps: An Artist of the Internet

**By Adrian Chen**

July 8, 2014

Computer skills do not usually correlate with a strong fashion sense. So when Nicola Formichetti, Lady Gaga's former stylist and the current artistic director for Diesel, met a whiz kid named Ryder Ripps four years ago, he expected a geek.

Instead, "he turned up wearing like, almost hot pants — a crazy outfit with a mohawk," Mr. Formichetti said. "And he looked so cool. I was like, 'You're Ryder?'"

Yet when Mr. Ripps sat down at a computer and began coding, there was no mistaking his true identity. "It really looked like Picasso painting, or like Beethoven playing his piano," Mr. Formichetti said. "He looked like this mad scientist writing all these codes on the computer and just creating all these visuals that were really twisted."

Mr. Ripps, the 27-year-old artist, programmer and creative director, is the consummate Internet cool kid, as fluent in HTML and JavaScript as in the language of conceptual art. Unlike most techies who hail from computer or business backgrounds, Mr. Ripps arose from the fashion and art worlds.

He was a founder of the influential online art community Dump.fm, and has made a name for himself with imaginative cyberpranks, including a 2012 website, WhoDat.biz, that pretended to be associated with Kanye West.

As the creative director of the digital agency OKFocus, Mr. Ripps and his place at the increasingly chic nexus of art and technology have attracted clients like Nike and Red Bull. His programming know-how and hyperactive digital-native sensibility have made him a sought-out adviser to creative professionals like Mr. Formichetti, with whom he is working on a "digital experience" for Diesel.

Mr. Ripps has also designed websites for the musician M.I.A. and the hip-hop producer Mike Will Made It, and collaborated with the video artist Ryan Trecartin. "He is definitely somebody who I feel like I find myself consulting when I want to talk out an idea that he particularly has the knowledge space for," said Mr. Trecartin, who met Mr. Ripps in 2010.

At the time, Mr. Trecartin was struggling to find high-resolution images of corporate logos for a project for W magazine. A mutual friend introduced him to Mr. Ripps, who quickly tracked down the images. "He had all these different tools he'd developed where he can mine different Asian websites," Mr. Trecartin said. The collaboration went beyond simply tech support. "He's very generous with his ideas," Mr. Trecartin said. "It was like collaborating with any artist. He just happened to be a programmer."

Mr. Ripps's ability to straddle disparate worlds springs from years of trolling the forgotten corners of the web. "The Internet is just a ton of different people," he said. "So, being good at knowing how to equally access these people to speak to them is being good at the Internet."

Born in New York City to the designer Helene Verin and the painter Rodney Ripps, Mr. Ripps was exposed to old-school creativity at an early age. But it was the freewheeling Internet of the mid-'90s that captured his imagination. He hung out with hackers in AOL chat rooms and lurked on video-game message boards. He learned HTML at a computer camp and used his skills to project a confidence online that he didn't have in the real world.

"In real life I was a really shy 10-year-old kid with arty parents," he said. "Online I was someone who was powerful, who could create things that people saw immediately."

In 2011, three years after graduating from the New School with a degree in media studies, Mr. Ripps founded OKFocus with the artist and programmer Jonathan Vingiano to subsidize his less-than-lucrative art career. OKFocus's work is infused with both Mr. Ripps's sincere belief in the liberating potential of the Internet and the mischievousness of early AOL hackers. Its websites are loud, playful and often disorienting.

A good website, Mr. Ripps said, "is one that understands that users are sitting there, possibly in their underwear, in a dark cave, feeling alone together. One that can connect with people on that level. It's like with music, like when you listen to a song and you cry because it understands you."

This approach has attracted hip brands that see their websites as a storefront window onto youth culture. "Nowadays, web know-how isn't enough," said Virgil Abloh, the creative director for Mr. West and a founder of the streetwear brand Been Trill, whose website OKFocus designed. "How web design can resonate with culture is what Ryder and OKFocus excel at."

<https://www.nytimes.com/2014/07/10/fashion/ryder-ripps-an-artist-of-the-internet.html>

1/2



## Ryder Ripps: An Artist of the Internet - The New York Times

Mr. Ripps's skill at manipulating culture in the digital age is perhaps best exemplified by his various online stunts.

In 2012, OKFocus developed a multiplayer game in which users compete to find a single pixel, and in late 2013, it garnered attention with Drake Shake, an app that pastes a random image of the rapper Drake on any photo when users shake their iPhones. The app went viral; at one point, Drake himself posted an Instagram photo using the app, perhaps unaware that Mr. Ripps had forged a note to Apple granting himself permission to use Drake's trademark.

He signed the forged letter “Ralph Romeo.” “Which is a fake name I use sometime because it’s very illustrious and romantic,” he said.

The Internet has let Mr. Ripps assume many creative roles, not all of them rooted in real life.

A version of this article appears in print on , Section E, Page 6 of the New York edition with the headline: An Artist of the Internet



# EXHIBIT 4



8/2/22, 5:41 PM

Ryder Ripps

**F** PROFILE

30 Under 30 - Art &amp; Style (2016)

## Ryder Ripps

Artist | New York, New York



Ripps is a conceptual artist living in New York City. His first solo exhibition, “Ho,” opened in January at the Postmasters Gallery. His oil paintings, based on model Adrienne Ho’s Instagram posts, elicited controversy and an anonymous death threat. He also founded online art community dump.fm and is creative director of digital agency OKFocus, whose clients include Nike and Bruno Mars.

<https://www.forbes.com/profile/ryder-ripps/?sh=709184abd4cc>

1/4



8/2/22, 5:41 PM

Ryder Ripps

## Forbes Lists

### 30 Under 30 - Art & Style (2016)

## Education



Bachelor of Arts/Science, New School

## More on Forbes



39 minutes ago

## Robinhood Hit With \$30 Million Fine

By **Rosemarie Miller** Forbes Staff



23 hours ago

## How Snoop Dogg's NFT Release Of Death Row Session, Vol. 2 Is Opening Up New Possibilities For Independent Artists

<https://www.forbes.com/profile/ryder-ripps/?sh=709184abd4cc>

2/4



8/2/22, 5:41 PM

Ryder Ripps

By **Josh Wilson** Contributor



## More from Forbes 30 Under 30 - Art & Style 2016 List



**Jake Sargent**

Fashion designer, SIMON MILLER



**Amalia Ulman**



<https://www.forbes.com/profile/ryder-ripps/?sh=709184abd4cc>

3/4



8/2/22, 5:41 PM

Ryder Ripps

## Aimee Song

Fashion blogger, Song of Style

## Visibility

Industrial designers, Visibility

[View Full List →](#)

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# EXHIBIT 6



8/2/22, 5:47 PM

RYDER RIPPS - Ho @ Postmasters: January 24 - February 28, 2015

January 24 - February 28, 2015

**ryder ripps****ho****artist page****artist bio (pdf)****press release (pdf)****list of works (pdf)****recent press:**

Co.Design, May 5, 2015

Brooklyn Rail, March 5, 2015

Complex, March 3, 2015

i-D Vice, February 28, 2015

The New York Times, February 27, 2015

Beautiful Decay, February 25, 2015

Art Observed, February 16, 2015

Complex Magazine, February 11, 2015

Berlin Art Link, February 10, 2015

ArtINFO, January 29, 2015

VICE, January 23, 2015

The Observer, January 23, 2015

Flavorpill, January 22, 2015

Complex Magazine, January 9, 2015

The New York Times, July 8, 2014

**RYDER RIPPS****Ho**

January 24 - February 28, 2015



Ryder Ripps, Ho, 2015. Installation view.

Ryder Ripps' first solo exhibition, titled Ho, will open on January 24th at Postmasters Gallery in New York. The show will feature large scale oil paintings, portraits once removed, derived from the Instagram of model Adrienne Ho (300,000 followers).

Ripps (6,000 followers) transforms self-portraits Adrienne Ho posts online into expressive, highly distorted pictures. Ho's carefully staged, posed and styled photos are digitally processed, then painted. In creating striking, warped images Ripps strains techniques that are commonplace in the fashion industry to make models appear more "attractive" to the point of abstraction.

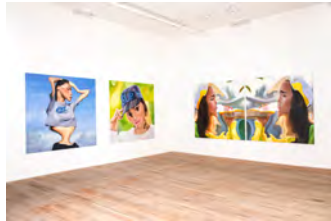
Abstract passages referencing the heroic gestures of the Action Painters are generated through fingers moving across the decidedly unheroic touchscreen- the new site of aggression and anxiety in the age of the "virtual male gaze", where the archetypal macho painter has been emasculated.

Through this play with medium and technique, new and old truths about modernity are exposed and exaggerated. We reflexively simulate reality online through constant self-awareness and mediation of our image. Self is malleable center; brands now arbitrate beauty; pop culture personas become brands, their authenticity manipulated by multiple filters and amplified by mass circulation. Ryder Ripps' portraits become a dissection of, and a subjugated homage to, his empowered subject as he updates the conversation about the place of painting in contemporary culture.

Ryder Ripps is a 28 year old conceptual artist living in New York City. He was recently profiled by the New York Times:

Mr. Ripps... artist, programmer and creative director, is the consummate Internet cool kid, as fluent in HTML and JavaScript as in the language of conceptual art...

- Adrian Chen, The New York Times



Ryder Ripps  
Ho  
Installation view



Ryder Ripps  
Ho  
2014  
oil on canvas  
72 x 72 inches (183 x 183 cm)



8/2/22, 5:47 PM

RYDER RIPPS - Ho @ Postmasters: January 24 - February 28, 2015

January 24 - February 28, 2015

**ryder ripps**

**ho**

**artist page**

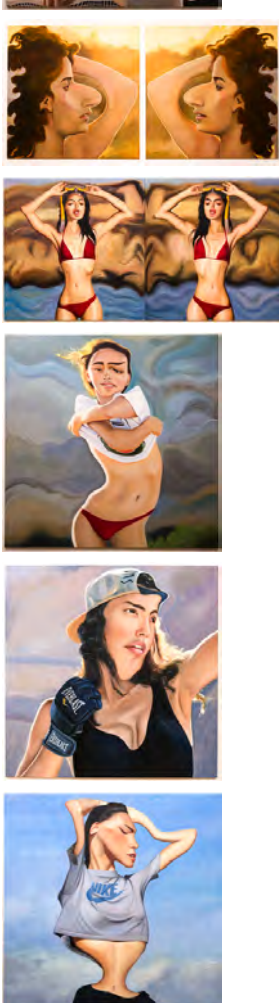
**artist bio** ([pdf](#))

**press release** ([pdf](#))

**list of works** ([pdf](#))

**recent press:**

Co.Design, May 5, 2015  
 Brooklyn Rail, March 5, 2015  
 Complex, March 3, 2015  
 i-D Vice, February 28, 2015  
 The New York Times, February 27, 2015  
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 ArtINFO, January 29, 2015  
 VICE, January 23, 2015  
 The Observer, January 23, 2015  
 Flavorpill, January 22, 2015  
 Complex Magazine, January 9, 2015  
 The New York Times, July 8, 2014



**Ryder Ripps**  
**Nose Reflection**  
 2014  
 oil on canvas  
 2 panels  
 96 x 96 inches (244 x 244 cm) each

**Ryder Ripps**  
**Swim**  
 2014  
 oil on canvas  
 2 panels  
 72 x 72 inches (183 x 183 cm) each

**Ryder Ripps**  
**Gettin' Ready**  
 2014  
 oil on canvas  
 72 x 72 inches (183 x 183 cm)

**Ryder Ripps**  
**Punch**  
 2014  
 oil on canvas  
 72 x 72 inches (183 x 183 cm)

**Ryder Ripps**  
**Hourglass**  
 2014  
 oil on canvas  
 72 x 72 inches (183 x 183 cm)



8/2/22, 5:48 PM

RYDER RIPPS - Ho @ Postmasters: January 24 - February 28, 2015

January 24 - February 28, 2015

**ryder ripps**

**ho**

**artist page**

**artist bio** (*pdf*)

**press release** (*pdf*)

**list of works** (*pdf*)

**recent press:**

Co.Design, May 5, 2015

Brooklyn Rail, March 5, 2015

Complex, March 3, 2015

I-D Vice, February 28, 2015

The New York Times, February 27, 2015

Beautiful Decay, February 25, 2015

Art Observed, February 16, 2015

Complex Magazine, February 11, 2015

Berlin Art Link, February 10, 2015

ArtINFO, January 29, 2015

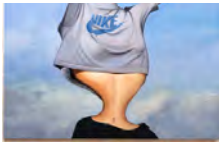
VICE, January 23, 2015

The Observer, January 23, 2015

Flavorpill, January 22, 2015

Complex Magazine, January 9, 2015

The New York Times, July 8, 2014



Ryder Ripps  
*Hourglass*  
 2014  
 oil on canvas  
 72 x 72 inches (183 x 183 cm)

Ryder Ripps  
*Drink*  
 2014  
 oil on canvas  
 2 panels  
 72 x 72 inches (183 x 183 cm) each

Ryder Ripps  
*More Like*  
 2014  
 oil on canvas  
 72 x 72 inches (183 x 183 cm)

Ryder Ripps  
*Sippy*  
 2014  
 oil on canvas  
 72 x 72 inches (183 x 183 cm)

Ryder Ripps  
*SUP*  
 2014  
 oil on canvas  
 72 x 72 inches (183 x 183 cm)



# EXHIBIT 7





URL to IRL: Controversial Artist Ryder Ripps Captures the Struggle of Existing on the Internet

The bold digital artist and entrepreneur rises above recent criticism with new installation, “Alone Together.”

BY KYLE CHAYKA  
Photography By Liz Barclay

Mar 03, 2015



THIS IMAGE IS NO LONGER AVAILABLE

Image via Complex Original

For his latest feat, the multifarious artist and digital designer Ryder Ripps has remade the vast Internet in miniature.

Ripps, 28, constructed the piece, titled *Alone Together*, at the cavernous Red Bull Studios in New York for the eponymous energy drink manufacturer. “It’s like a geode, the inside of a gem,” he says of the installation, which opened on February 27.

Visitors ascend metal steps into a rough-hewn box. Inside, an immersive rainbow of projected imagery and text covers every wall. This content is provided by the live web-surfing of six people stationed in faux-corporate cubicles downstairs from the gallery space, linked to the Internet-geode by a thick set of cables. “Each has their own unique use of the Internet: a gamer, blogger, someone who’s obsessed with online shopping,” Ripps says.



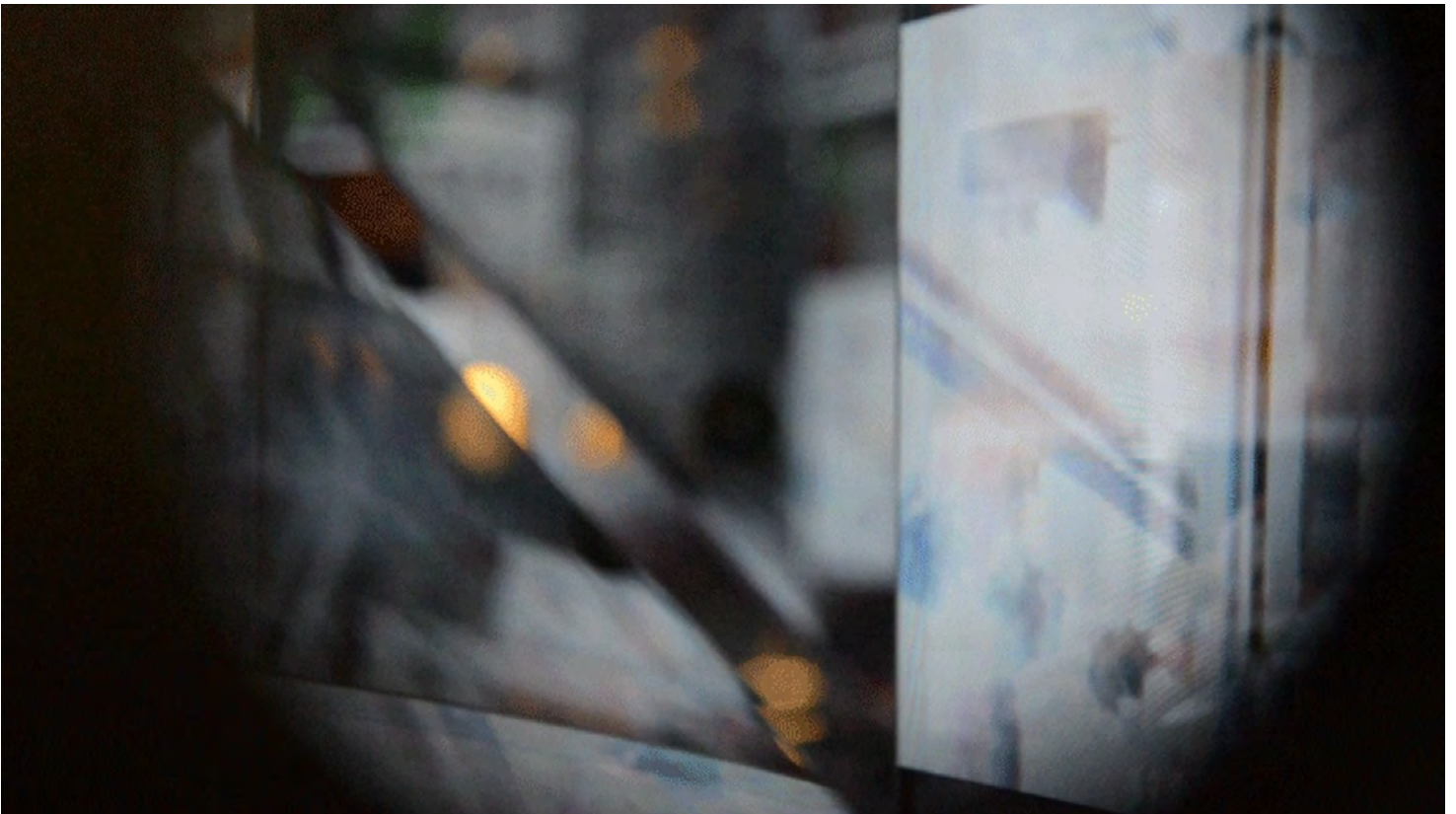
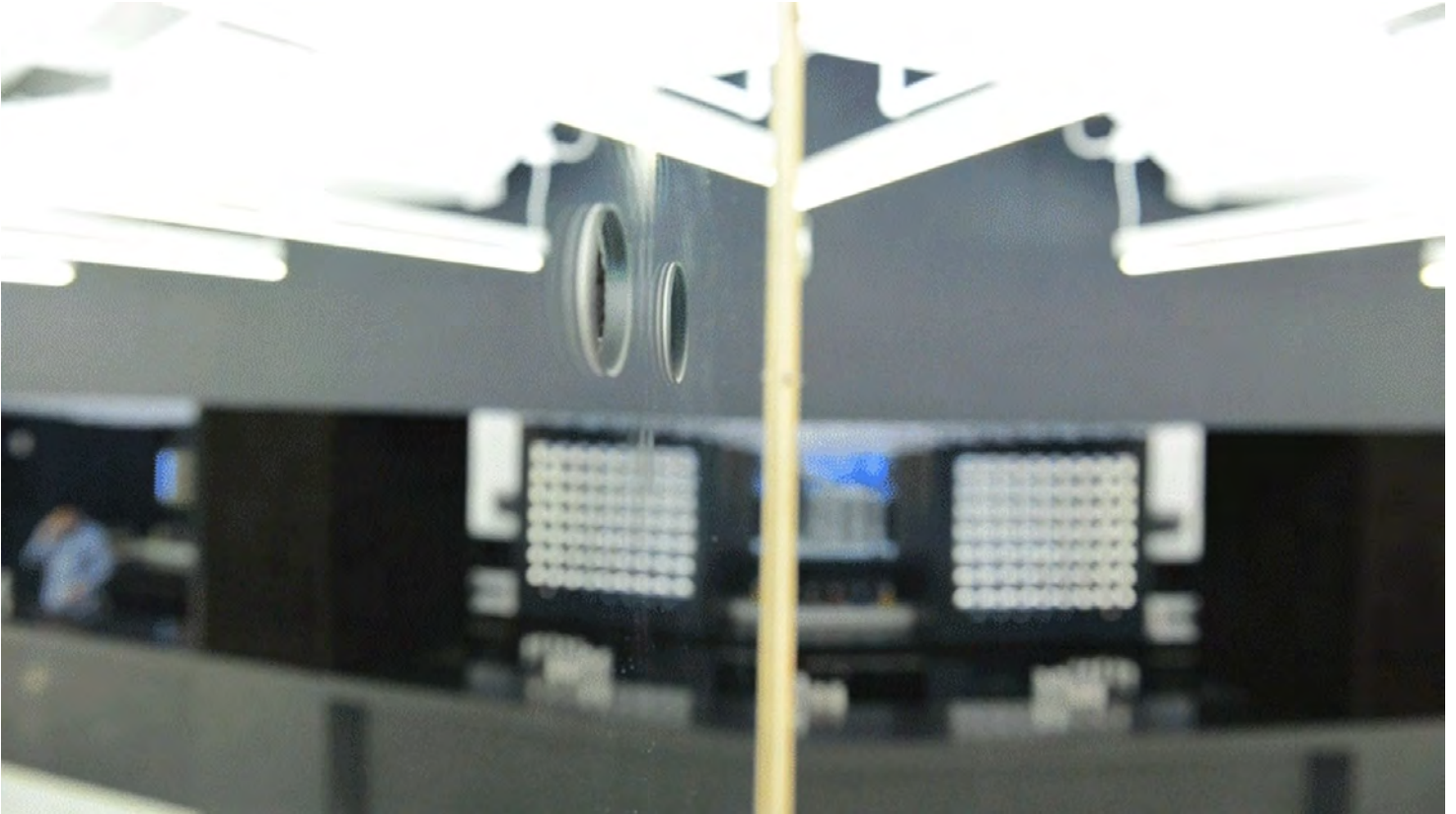


Images via Red Bull

*Alone Together* exposes the underside of the funny tweets and weird videos that form the social web. “The Internet is driven, it’s something that’s powered,” Ripps says. What powers it is people, though users might not always recognize it. Ripps knows this ecosystem well. His influence on the Internet zeitgeist has been remarkable, with projects ranging from the March 2012 launch of a fake Kanye West start-up, which fooled media giants, to Drake Shake, a viral app launched in December 2013 that humorously adds Drake to one’s photos.



The artist has a unique way of playing all sides of the Internet. *Alone Together* is particularly impressive because Red Bull paid OKFocus, the creative agency that Ripps co-founded with Jonathan Vingiano in 2011, to design pop-up websites. The bleed-over between art and branding that Ripps is a part of online signals a larger shift. “The way artists use computers is more along the lines of what’s actually going to make money and move society forward than the way accountants use computers,” Ripps says.



Images by Liz Barclay

Ripps is, in fact, turning art into money. But in digital art’s march toward a more traditional set of collectors and institutions, Ripps has stayed more avant garde than most simply by embracing economic reality wholesale rather than just dabbling in it. If in the dystopian, media-obsessed present individuals have become brands, then, to crib from Orwell, some people are more branded than others. In this respect, Ripps is surely the Michelangelo of his time.



Branded commerce has always driven the art economy. Why else pay millions for Damien Hirst's stuffed shark in a tank if not to own its aura of fame? But rather than simply acting like a business, Warhol-style, Ripps has taken the extra step of straight-up becoming one. Artist collectives like K-HOLE pose as trend-forecasting companies, as they did for the New Museum's new Internet-friendly triennial *Surround Audience*, but Ripps was already there and turning a profit, netting commissions for OKFocus from art-world clients as well as companies like Nike and Google that propelled his personal artistic career.

**"The way artists use computers is more along the lines of what's actually going to make money and move society forward than the way accountants use computers."**

**-Ryder Ripps**

According to Ripps, the difference between his individual artistic practice—composed of projects like *Alone Together*, gallery shows (including an exhibition of paintings at the widely respected Postmasters gallery), and online pop-ups—and OKFocus' commercial advertising is "just motive." "If you're a client, and you approach OKFocus to do something, it's a collaboration that's reaching the client's goal," he explains. "But if you're a company, like Red Bull, and you approach me to do an art thing, I'm going to do art, which is going to be to my goal."

Rather than stigmatizing him, this ability to cross boundaries is part of what made Ripps appealing to Red Bull. "What is interesting about Ryder is that he possesses a rare ability to navigate two seemingly disparate worlds, as both a conceptual artist and as a creative director," says Red Bull Studios programming manager Max Wolf. "He has done some incredible work for Red Bull, among other brands, through OKFocus. However, we were interested in seeing what Ryder the conceptual artist would do." For a company that wants to market itself as a creative lifestyle brand rather than merely something to mix with vodka, Ripps is a one-stop shop.







Images by Liz Barclay

Ripps' family background may explain the ease with which he moves between art and commerce. His father, Rodney Ripps, is an expressionist painter turned New York City real estate agent and his mother, Helene Verin, is a designer whose work includes shoes, rugs, and wallpaper. A childhood spent on the early Internet led him to attend City as School, a West Village public high school set apart by its emphasis on practical internships. "It was the best experience ever for me," Ripps says. "I was a total shithead kid and got in tons of trouble and hated school but thrived in this thing. I could intern at a music studio or public television, all over the place."

City as School plays a part in *Alone Together*, where it's partnered with the digital collective Powrplnt to create a classroom in the back of the space with lessons on programming, design, and cultural provocation for students as well as the public. "They're learning the computer but also learning it through a frame of art," Ripps says. "That's unique for a 16-year-old. You can take a computer class, but it's not going to open your mind up."

After City as School, Ripps attended the New School, then created OKFocus after graduating in 2011, carving out a space that exists sometimes uneasily between art and business. "Ryder is an artist who has an acute sense and understanding of how we operate within the media-driven reality and what it represents creatively," says Magda Sawon, founder of the Postmasters gallery.





Photo by Liz Barclay

He continues to garner attention despite detractors like [Art F City founder Paddy Johnson](#), who in late January decried “the total absence of a defensible idea” in his work, following a project called “Art Whore,” which Ripps carried out under the auspices of Ace Hotel New York. The artist was given \$50 and a room for the night to make whatever work he chose. Ripps then hired purveyors of “sensual massages” on Craigslist to come to the hotel and make drawings in his stead, which he posted to Instagram, referring to his assistants as “sex workers.”

The piece was ad-hoc and crudely presented; the shitstorm that it touched off in art media thus not entirely unexpected, with Paddy Johnson, *Rhizome*, and *Dazed* piling on criticism. ([Vice supported the work](#).) The response speaks to Ripps’ ability to do, perhaps semi-subconsciously, precisely what provokes the loudest shouts from what is usually a low-key community. “Art Whore” was certainly in poor taste. But to respond to Johnson’s critique from above, the idea of the work might just be that it works, encapsulating and inhabiting the tide of the Internet much as the desk surfers of *Alone Together* do. In the online attention economy, Ripps is rich.

That the artist is on the cutting edge of culture is indisputable. His Instagram account has documented his business meetings with Kanye West, the star he once pranked. OKFocus works with innovative clothing brands like Kenzo and Been Trill (at Red Bull Studios, Ripps wears a pinstriped blazer and modish scarf over a screenprinted T-shirt and jeans gnarled with fashionably superfluous seams). Ripps’ art is also being funded, as *Alone Together* proves. But that only makes him more of a target.





"Gettin' Ready" by Ryder Ripps (2014) / Image via Postmasters



"Mona Lisa" by Ryder Ripps (2014) / Image via Postmasters



Ripps' Postmasters exhibition, *Ho*, featured cartoonishly distorted versions of selfies that model and fitness celebrity Adrienne Ho posted on Instagram, which were then transferred to canvas by artists who also worked for Jeff Koons. At the opening in January, tension plucked the crowd over [an anonymous note Ripps received](#) threatening that if he didn't cancel the show, there would be an ambush that "won't involve physical violence, but it will be highly embarrassing." The opening proceeded and the promised attack turned out to be [two dudes, bare-chested and wearing stringy red wigs](#), impersonating drunk fraternity brothers. The duo pranced between the painted canvases hung on the gallery wall, but it wasn't the artist who should have been embarrassed.

The lame attempt at satire was meant to lampoon Ripps as an "Art Bro," a label applied to several others in his generation of Internet-driven artists whose work is marked by digital machismo. The group, including Parker Ito, Brad Troemel, and Artie Vierkant, has lately found success in the art market, perhaps because the artists' so-called "Post-Internet" work is equally at home displayed on an iPhone screen, hung in a gallery, or mounted in the lobby of a suitably hip small-chain hotel.

**"What is interesting about Ryder is that he possesses a rare ability to navigate two seemingly disparate worlds, as both a conceptual artist and as a creative director."**

**-Max Wolf**

For Ripps, working as part of a creative agency gives him license to avoid some of the more onerous aspects of the art world that have "totally pigeonholed" his colleagues. "The freedom that I have at OKFocus is way more than a fucking zombie formalist painting," Ripps says, referencing the catch-all term for messy abstraction popularized by critic Walter Robinson. "I look at that shit and I think, yo, that's the opposite of freedom. Oh my God, and that whole bullshit Post-Internet phrase, it's a total cop-out."

Indeed, why turn your artwork into salable commodities when the same ideas can be sold to brands alongside the art, which becomes a kind of loss-leader, like couture is to ready-to-wear? As art galleries turn into brands and brands acquire art galleries, Ripps shows it's not so difficult to become your own boss. Rembrandt van Rijn, who marketed his signature portraits as lifestyle goods to a booming middle class of merchants during the Dutch Baroque, would be proud.





Image via Red Bull

Proving that an artist can be a business may be the principal accomplishment of Ripps’ practice. He is, above all, a realistic denizen of today’s Internet, an engine of culture that has a well-established ability to turn innovation into money with few steps between. The problem with the Internet, though, is that it’s always moving on, and success is ephemeral, signaled by a few likes or retweets that always leave a desire for more.

In *Alone Together*, there’s a small button that visitors can push to let the laboring cultural creators know that they like what the surfers are finding. “The Like button is a humorous element,” Ripps says. “You realize this button that you hit just turns on a light downstairs that’s really small.” In the meantime, the images keep flashing by one after another inside the geode, regardless of how much they’re liked. For better or worse, life now includes this torrent of content that stops for no man, woman, meme, or artist. “The whole implication of the feed is that it changes, and it changes a lot,” Ripps says. “Instagram’s not going to exist in five years. The image is temporary.”

In the meantime, before ephemerality sets in, Ripps is simply moving with the current and making the best of it. “People get so serious about their Likes,” he says. “You realize how stupid it is.”

Visit *"Alone Together"* at Red Bull Studios New York (220 W. 18th Street) through April 12, 2015 from 12 p.m. - 7 p.m.

## Conversation


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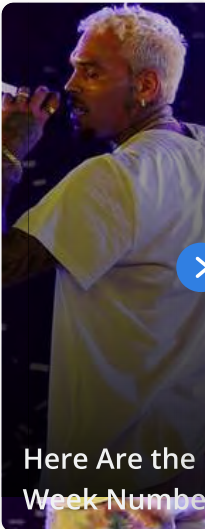
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# EXHIBIT 8





ETH-USD  +1.72%



8/2/2022 5:55 PM

## CryptoPunks Get Punked

It's that point Ripps attempted to press with his latest artistic statement, an effort to goad Larva Labs into taking copyright action, he said.

On June 29, Ripps listed an NFT titled "CryptoPunk #3100" on Foundation, a near-facsimile of an official [punk by the same name](#). Ripps's version, which sold for 2.189 ETH (~\$4,620 USD), was of slightly higher resolution than the original, which last sold on March 11 for a record-breaking (at the time) [4,200 ETH](#) (~\$7,584,485).

**Related:** [CryptoKickers Is Bringing NFT Sneakers to the Hypebeasts of the Metaverse](#)

"This work is a critique of NFT and Larva Labs," Ripps said. In an Instagram [post](#), he went into further detail about how CryptoPunks are devoid of humanity and have become institutionalized by traditional artistic gatekeepers – like very old auction houses. "The glimmer of what was once 'punk' about Cryptopunks [sic] is gone," he wrote.

*Welcome to the annoying world of conceptual art.*

On July 1, Larva Labs submitted a Digital Millennium Copyright Act (DMCA) takedown notice to Foundation, which was forwarded to Ryder Ripps as required by law, a Foundation representative said. Hours later, Ripps submitted a counterclaim to Foundation saying his work falls under "fair use," and minted the DMCA [takedown notice](#) as an NFT along with Larva Labs' [email](#).

Jason Williams, who also goes by "Parabolic Guy," bought the work after seeing the controversy flare up on Twitter. CryptoPunk "die-hards" argue that copies would dilute the value of their holdings. Others thought Ripps' project failed to advance the crypto art movement.

"As I started to think about it more I figured it would lead to a broader discussion around the DMCA copyright what's real and what's not, etc.," Williams said in a direct message. "And I thought the punk would be very valuable since it is the first DMCA punk that Larva Labs took action against."

There have been other punk copycat projects. [CryptoPhunks](#), for one, markets itself as "Punks that Larva Labs does not want you to own." The project was taken off [OpenSea](#) initially but has found a workaround for now. Then there's the mirror world series hosted on [Binance Smart Chain](#).

Part of the issue is that NFTs provide buyers with ownership of a digital token, but not necessarily the work to which the token corresponds. Just as when you buy a painting, that doesn't mean you can sell the image in the painting to McDonald's to use as wallpaper in an Egg McMuffin ad. This is a boundary that Ripps has [pressed in the past](#). Although a work of art may not improve upon or transform an original physically, which is a typical stipulation of [fair use](#), it could be introducing a new artistic thought.

"Welcome to the annoying world of conceptual art," Ripps wrote.

[Brady Dale](#) contributed reporting.

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# EXHIBIT 9



8/11/22, 1:07 PM

18



#### HATE SYMBOL

# 18

Published: 05.03.2022

**ALTERNATE NAMES:** Combat 18, C18

18 is a white supremacist alphanumeric code for Adolf Hitler (1=A and 8=H). It is most commonly associated with the British white supremacist group Combat 18 or C18. Occasionally, Combat 18 cells appear in the United States, but they tend to be small and short-lived.

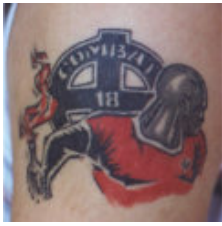
### Additional Images:





8/11/22, 1:07 PM

18





# EXHIBIT 10



DANIEL RUEDA

# Neoeconfascism

## The Example of the United States

*Humankind alone is no longer the focus of thought, but rather life as a whole. This striving toward connectedness with the totality of life, with nature itself, a nature into which we are born, this is the deepest meaning and the true essence of National Socialist thought.<sup>1</sup>*

—Ernst Lehmann, 1934

*We are a special part of the natural order, being in it and above it. We have the potential to become nature's steward or its destroyer. European countries should invest in national parks, wilderness preserves, and wildlife refuges, as well as productive and sustainable farms and ranches. The natural world—and our experience of it—is an end in itself.<sup>2</sup>*

—Richard Spencer, 2017

In a context of increasing concern regarding global warming and its effects on human society and our planet's biosphere, environmentalism is expected to become one of the central political issues of the next decades. The emergence and success of green movements and parties, a logical consequence of such situation, is already a reality in several Western countries. Although there are differences between those movements, in



general they share values such as progressivism, liberalism, equalitarianism, and respect for democracy.

Yet this hasn't always been the case in the past, and it won't necessarily be the case in the future. History shows us that the protection of the environment against human intervention and the idea that the human being is part of the natural world are far from being a monopoly of any single worldview. In fact, at the beginning of the twentieth century it was difficult to associate such tendencies to a particular ideology.<sup>3</sup>

Although today ecological radicalism is generally associated with leftist worldviews, its radical right counterpart, ecofascism, remains a reality in a series of contemporary political groups and it could be a political force to be reckoned with in the near future in countries such as the United States. This article starts from the assumption that political demands (such as environmentalism) only express concrete content after being located within a discursive system, a view introduced by the poststructuralist theorist Ernesto Laclau.<sup>4</sup> This means that ecological radicalism cannot be a priori associated with any particular ideological movement. Therefore, the fact that the radical right "uses" it cannot logically be denounced as a deceitful appropriation. A similar view is formulated by Janet Biehl and Peter Staudenmaier (although on a different basis), the authors of what has become the reference publication on ecofascism.<sup>5</sup> Only this "relativist" framework can guarantee a rigorous and objective examination of ecofascism and prevent ideological biases.

This article is divided in two sections. The first is a brief history of the genesis of ecofascism and an analysis of the core ideas of its doctrine. It will trace the origins of this branch of fascism that began to form in Germany at the end of the nineteenth century and that was highly influential among certain sectors of the NSDAP (*Nationalsozialistische Deutsche Arbeiter Partei*) until the fall of the Nazi regime in 1945. This section will also focus on analyzing what kind of ecological radicalism was formulated by the early ecofascists and what were its connections with racist and authoritarian discourses.

The second section centers on an illustrative case study that can point up some of the key characteristics of neoecofascism, the contemporary version of ecofascism, and how they compare to the latter's. It will focus on the United States, a country that has witnessed a rise of radical right groups and discourses in the last decade<sup>6</sup> and in which several terrorists have included



ecofascist remarks in their manifestos, as we shall see further on. Finally, the differences between the many right-wing environmentalist stances will be outlined in order to avoid the semantic inflation of the term “ecofascism.”

## The Origins of Ecofascism: The German National-Romantic Synthesis

Ecofascism was first and foremost an offshoot of Romanticism, an intellectual movement whose impact on Germany during the nineteenth century is impossible to exaggerate. In political terms, Romanticism was primarily a reaction against the Enlightenment and its core assumptions. To put it baldly, to reason, individualism, and civic communitarianism the Romantics opposed a celebration of introspection and the emotional, a nostalgia for a lost community (be that ethnic or religious) and an emphasis on rootedness against cosmopolitanism and universalism.

That being said, it is important to note that Romanticism was and is a complex and rich cultural movement that gave origin to several and often contradictory tendencies on both ends of the political spectrum.<sup>7</sup> In fact, even critics of Romanticism, who tend to condemn it as part of the so-called Counterenlightenment, such as Isaiah Berlin<sup>8</sup> or Tim Blanning,<sup>9</sup> admit that its alleged negative influence on modernity and liberalism needs to be nuanced. Moreover, it is important not to lose sight of the fact that, as authors like Zygmunt Bauman,<sup>10</sup> Theodor Adorno, and Max Horkheimer<sup>11</sup> have noted, some of the key ideas that emanated from the Enlightenment (such as instrumental reason) were also pivotal for the fascist movement. Be that as it may, this work will focus on the Romantic currents that paved the way for the advent of ecofascism, therefore concentrating on some forms of Romanticism at the expense of others. The connection between Romanticism and fascism has been pointed out by the main authors of the fascism studies field, such as Roger Griffin,<sup>12</sup> Emilio Gentile,<sup>13</sup> George L. Mosse,<sup>14</sup> Zeev Sternhell,<sup>15</sup> Stanley G. Payne<sup>16</sup> and Robert Paxton.<sup>17</sup>

Germany was the nation in which, according to Biehl and Staudenmaier, ecofascism was first articulated.<sup>18</sup> The German Romantics played a key role in shaping their country’s nation-building project (it is not by coincidence that one of the first German intellectuals who promoted nationalism was Johann Gottlieb Fichte, a philosopher highly influenced by the Romantics)<sup>19</sup> and they



did so by opposing the kind of nationalism that was being formulated by the French revolutionaries at the time. To civic and contractual nationalism, the German Romantic nationalists of the nineteenth century opposed a union based on ethnicity and a shared and unique culture,<sup>20</sup> a solution related to the fact that there was a high degree of political and territorial fragmentation of the Germanic lands, a situation that made it difficult to find common institutions and political authorities. Lacking the political, these thinkers turned to the ethnic.

This led some nationalist thinkers to differentiate between German nationalism (ethnic and Romantic) and French nationalism (civic and liberal), a distinction that was advocated mainly by French scholars and that has been partly contested since its formulation.<sup>21</sup> The idea that the German nation was being built with too much emphasis on irrational, ethnic, and xenophobic elements is not a contemporary view, for it was already pointed out by nineteenth-century thinkers. Such is the case of Federico Chabod, an Italian historian who drew a distinction between the German *Volk* based on spiritualism and racial identity) and the liberal and contractualist idea of the nation that had emerged in France and Italy.<sup>22</sup> Ernest Renan, one of the most important theoreticians of nationalism, shared this view and pointed to Romanticism as a dangerous ingredient in nation-building processes.<sup>23</sup>

It is in this historical context that the two most important ideological movements for the advent of ecofascism appeared: *Blut und Boden* (Blood and Soil) philosophy and *völkisch* (which literally means “folkish,” although the translation of the word *Volk* is hard to make outside the German context)<sup>24</sup> movement.

The notion of *Blut und Boden* emerged in the late nineteenth century and initially referred to literary and cultural trends rather than to political tendencies.<sup>25</sup> The core idea behind this slogan is that the two main components of a nation (here understood as an *ethnos*, not as a *demos*) are a shared ascendancy (and thus a series of racial common traits) and a shared territory. Those two components are only distinguished for conceptual purposes, for they are actually two inseparable and integral parts of the national soul or spirit (*Volksgeist*) that permeates the totality of the territory of the nation and its inhabitants. This nostalgic longing for transcendent unity is one of the strong points of the Romantic anthropological project.<sup>26</sup>

This means that nature, which had been restored by the Romantics as an active and mysterious force against rationalist and scientificist postulates, is



presented as a part of the nation. The *Volk*, its national community and its territory are one, bridged by a metaphysic and nationalist understanding of the world. Men (here, German men) are thus completely rooted in their fatherland, and their character is supposed to mirror the landscape in which they were born. This allowed some nationalist thinkers to posit that whereas the Germanic peoples were inward-looking, mysterious, and spiritually rich (inasmuch as they lived in a dark territory full of dense forests), the Jews were a materialistic and mundane people because they came from the deserts (and they also were uprooted and inevitably cosmopolitan insofar as they had abandoned their original land).<sup>27</sup>

The key idea here is that according to the Blood and Soil creed, there is a metaphysical symbiosis between the *Volk*, its culture, and nature.<sup>28</sup> Inasmuch as nature is part of this *Volksgeist* it logically becomes something that needs to be protected, not because it is a vulnerable part of our biosphere or because exploiting it is dangerous in economic terms, but because it is part of the nation. This is the core belief behind the ecofascist concerns towards nature, a belief related to identity anxieties rather than to a progressive longing for environmental justice. It is clearly connected to the Romantic critique of industrialization and urbanization as well as to modern idealizations of the natural world,<sup>29</sup> although here an essential nationalist element is added. Nature is portrayed as a source of mysticism that cannot be understood rationally and that is closely connected to the national ethos of a concrete territory. It is therefore “nationalized.” Thus, defending nature is logically akin to defending the nation and the *Volk*.

This synthesis between naturalism and Counterenlightenment ideas was formulated mainly by Ernst Moritz and Wilhelm Riehl.<sup>30</sup> Moritz was a German nationalist who advocated a homogeneous society based on medieval values (which mainly are, according to him, authority, spiritualism, and corporatism) and who fueled the growing xenophobia against the French in the context of the Napoleonic Wars.<sup>31</sup> In 1815 he wrote a diatribe against industrialization in which he defended the interconnectedness of nature, the human being and social community.<sup>32</sup> Riehl for his part was a folklorist who insisted on the romantic idea that nature is somehow more genuine and real than society<sup>33</sup> and on how the *Volk* is inevitably rooted to a particular territory. He defended a return to traditional hierarchies and to an organic political system,<sup>34</sup> thereby anticipating some of the core assumptions of National Socialism.



This amalgamation of nature and society soon became instrumental for the most reactionary among German nationalists. Raoul Heinrich Francé, a German botanist and philosopher, formulated in 1920 the idea of *Lebensgesetze*, positing that nature and social arrangements were inevitably based on the same premises (inasmuch as, following again the romantic *Weltanschauung*, the cosmos is an organic unity and thus every part of it is connected to the others).<sup>35</sup> This had the implication that society would logically need to be based on hierarchy, racial division, patriarchy, and the principle of survival of the fittest. Furthermore, it implied that human beings were not necessarily special creatures, a mindset that anticipated some of the most brutal expressions of Nazism according to Robert Pois.<sup>36</sup> The notion of *Lebensgesetze* also entailed that nature needs to be saved from harm, for not doing so would mean not recognizing it as part of the cosmic and mystic unity that was so important for Francé and his disciples.<sup>37</sup> As Franz-Josef Brüggemeier, Mark Cioc, and Thomas Zeller note:

Homeland and nature protectionists saw it as their task not only to protect rare plants, endangered animals, and natural monuments, but also to preserve local customs and national traditions, following the dictum “keep the German people [*Volkstum*] strong and wholesome.” What kept Germans powerful and pure, in turn, was the strength Germans drew from preserving their traditions, monuments, and land. Volk, homeland, and nature were intertwined.<sup>38</sup>

The *völkisch* movement, the other main ideological precursor of ecofascism, appeared during the late nineteenth century as well. This was a period of nation-building (the country was finally unified in 1871) and rapid industrialization in Germany. The rivalry with France, as mentioned, had prompted an intellectual response against the *philosophes* and their rational and scientific worldviews. According to George Mosse, the movement was apolitical when it emerged, not because of a lack of political views, but in the sense that it didn’t have clear political goals.<sup>39</sup> Moreover, it is important to keep in mind that there wasn’t a united *völkisch* movement, for “instead of a single, organized political force, an uncoordinated collection of *völkisch* groups and individuals emerged”<sup>40</sup> and that the common ground of these groupuscules “was limited to agreement that the German nation should be based on the concept of the German *Volk*, defined in racial terms.”<sup>41</sup>

The *völkisch* movement embraced a worldview whereby nature was far from being mechanic or dead (as some scientificist thinkers propounded)



and claimed that it should instead be thought of as a living and mystic entity (a view, as mentioned, defended by the German Romantic philosophers) that could represent a spiritual antidote to industrialization and modern life. To urban life and capitalist modernity, some *völkisch* writers and poets opposed the idea of an idyllic German nature by creating the *Heimatkunstbewegung*<sup>42</sup> (Homeland Art Movement), from which emerged the *Wandervogel* group (literally, bird of passage), which was part of the important German Youth Movement, an organization highly influenced by the philosopher Friedrich Nietzsche.<sup>43</sup> The *Wandervogel* organized group hikes for young people as a protest against modern society and soon became a source of anti-Semitic and ethnic nationalist ideas.<sup>44</sup>

Originally neither the *Blut und Boden* nor the *völkisch* worldviews espoused a scientific form of racism. This is because they had as one of their core assumptions a rejection of rationalism and science, which they associated with modern decadence and materialistic disenchantment. Their anti-Semitism was spiritual and metaphysical, and therefore more related to thinkers such as Julius Evola<sup>45</sup> than to Arthur de Gobineau or Houston Chamberlain.<sup>46</sup> Rather than pseudoscientific conferences, these movements preferred to celebrate the summer solstice and other Nordic pagan festivities.<sup>47</sup> In a nutshell, they had more in common with Helena Blavatsky's esoteric Theosophy (who gave birth to the more overtly racist Ariosophy a few decades later)<sup>48</sup> than to scientificist worldviews.

These romantic nationalists thought that the German race was unique inasmuch as it was homogeneous and divine, and therefore not corrupted by foreign elements. Wilhelm Riehl, whom we have identified as a "proto-ecofascist," compared the Germans to a tree, well-rooted in the soil but pointing to the sky (i.e., to the spiritual).<sup>49</sup> Yet when at the beginning of the twentieth century (and especially after the First World War) these ideas were politicized they inevitably lost some of their mystic and spiritual traits and partly embraced the by then mainstream scientific biological worldview. The fact that during the interwar period so many of the young participants of the *Wandervogel* movement fled to far-right and proto-Nazi parties such as the DNVP (*Deutschnationale Volkspartei*), the German Socialist Party (*Deutschsozialistische Partei*), or the Pan-German League (*Alldeutscher Verband*) is symptomatic of a shift in the objectives of the *Völkisch* movement. According to George Mosse, 1918 can be considered the year of the political



systemization of the *völkisch* ideology,<sup>50</sup> roughly coinciding with the first steps of the convulse Weimar Republic.

It is hardly surprising that these ideas ended up permeating some sectors of the main German fascist party, the NSDAP. The man charged with incorporating them into the Nazi rule context was Walther Darré, a pioneer in environmentalism who might be the most famous among all the ecofascist ideologues and politicians. He was politicized at an early stage of his life when he joined the *Artamanen Gesellschaft* (a *völkisch* group who propounded a return to nature in order to escape modern urban society) and became an agrarianist.<sup>51</sup> During the 1930s Darré turned into the most prominent member of the Blood and Soil movement and claimed that the German land needed to be protected both against the Jews and against uncontrolled industrialization.<sup>52</sup>

Darré defended the need of restoring the connection between *Blut* and *Boden*, i.e., between the German *Volk* and its territory, thereby promoting imperialist goals related to the idea of *Lebensraum* (inasmuch as after 1919 millions of Germans were living outside the frontiers of their original country, mainly in Poland and Czechoslovakia), anti-Semitic views (inasmuch as he posited that Jews, who weren't part of the *Volk*, needed to be expelled from German soil) and also environmentalist and social policies (insofar as both the *Volk* and its biosphere were deemed worthy of protection). In 1933, he became Reich minister of food and agriculture, a prestigious position he held until 1942.

Darré was the most fervent intellectual of the so-called green wing of the Nazi party, which counted among its members other important figures such as Fritz Todt, Alwin Seifert, and Rudolf Hess.<sup>53</sup> Darré, Todt, and Seifert managed to implement some environmentalist policies, mainly related to organic agriculture, reforestation, protection of endangered plants and animals, and industrial and commercial restrictions. This led inevitably to a series of confrontations with important Nazi politicians who weren't particularly enthusiastic about ecological measures, such as Martin Bormann, Joseph Goebbels, and Reinhard Heydrich.<sup>54</sup> After all, the environmentalist tendencies within the National Socialist ideology were only a part of a complex and often contradictory worldview, and issues were continually aroused when it came to translating them into concrete policies.<sup>55</sup>

This was the brief history of ecofascism, a doctrine inspired by Romanticism, nationalism, and racism that appeared in Germany (although it had followers in other countries, such as Italy)<sup>56</sup> and managed to have an important



impact on the Nazi regime. Far from being a cynical manipulation of noble intentions, German ecofascism was a genuine environmentalist ideology, although one deeply intertwined with violent, imperialist, and racist views. There was a sincere will to protect the German environment within the green wing of the NSDAP, despite its rationale being totally at odds with today's green parties' political projects. That being said, Hitler wasn't particularly enthusiastic about his party's green wing, and the importance of ecofascism within the regime was limited, as Anna Bramwell has shown.<sup>57</sup>

After 1945 the fascist doctrine and its supporters were swept away by the calamitous defeat of the Axis at the end of the Second World War and became marginal throughout the West. Yet this didn't imply the end of ecofascist tendencies. As we shall see, today ecofascism is going through a process of rearticulation, especially in the United States. How does this new ideology, which will be called neoeconfascism, differ from the original doctrine? How has it adapted to the contemporary era? Could it become a mass movement or a mainstream ideology in the future, as was the case with the Blood and Soil ideal and the small *völkisch* movements a century ago?

## The Alt-Right, a Neofascist Movement

If today there is a country in which neofascism (which is the word conventionally used to refer to fascist movements and ideologies after 1945)<sup>58</sup> is a relatively flourishing ideology, it is the United States. This article will employ the definition of "fascism" formulated by Roger Griffin, who defined the so-called "fascist minimum" (i.e., the core aspects of the fascist ideology that apply to every form of fascism) as

[A] genuinely revolutionary, trans-class form of anti-liberal, and in the last analysis, anti-conservative nationalism. As such it is an ideology deeply bound up with modernization and modernity, one which has assumed a considerable variety of external forms to adapt itself to the particular historical and national context in which it appears. . . . [Fascism] seeks to end the degeneration affecting the nation under liberalism, and to bring about a radical renewal of its social, political and cultural life as part of what was widely imagined to be the new era being inaugurated in Western civilization.<sup>59</sup>



Drawing from this definition, it is possible to identify several American political organizations and intellectuals as neofascist. The group that stands out in this respect is without question the Alt-Right (an abbreviation of “alternative right”), a cluster of loosely connected intellectuals, online groups, and activists who profess anti-democratic, anti-liberal, anti-conservative (it is important to highlight that the Alt-Right is genuinely different from the rest of the right, including the so-called Alt-Lite),<sup>60</sup> white nationalist, racist, and patriarchal views.<sup>61</sup> This movement began to form at the beginning of this decade when Richard Spencer (its most visible face) launched *The Alternative Right* webzine. The Alt-Right shot to fame in 2016 when Donald Trump chose Steve Bannon (the editor of *Breitbart News*, which he described as the platform for the Alt-Right) as his campaign director. At that moment this radical movement “went from obscurity to infamy,” in the words of Thomas Main.<sup>62</sup>

Despite the fact that some of its idiosyncratic features make the Alt-Right a peculiar movement (e.g., its dispersed organization, the continuous use of irony, its presence online, and the consequent use of internet codes) that shouldn’t prevent us from seeing it as a political group with a well-articulated ideology that can be systematically analyzed.<sup>63</sup> In fact, we have previously noted that both the *völkisch* groups (who originally tended to be apolitical) and the Blood and Soil ideology were initially a myriad of dispersed stances and organizations, before they were articulated into more consistent worldviews. The type of neofascism that we are witnessing today might be at the moment in a “preparadigmatic state” similar to the one that existed in pre-1914 Europe, when despite the blossoming of radical right groups across the European continent, there wasn’t a corpus of ideas capable of homogenizing and structuring the groups.

Moreover, some of the Alt-Right’s extravagant elements might be in fact more politically rational than they seem. For example, the continued use of ironic detachment is probably due not only to the fact that the Alt-Right’s online community is inhabited by young people for whom this rhetorical device is essential, but also to a conscious will to engage in radical positions without confronting the social consequences that derive from doing so.<sup>64</sup> *The Daily Stormer*, a website associated with the Alt-Right, stated in its (leaked) guidelines for potential authors that “the tone of the site should be light so that the unindoctrinated can’t tell if we are joking or not.”<sup>65</sup> As Jason Wilson points out, irony and comic ambiguity are clearly “discursive weapons” in



the hands of the Alt-Right.<sup>66</sup> In fact the movement's neo-ecofascist stance (which is analyzed below) has also been filtered through irony and internet codes, giving birth to mottos such as "save bees, not refugees"<sup>67</sup> and to groups such as The Pine Tree Gang,<sup>68</sup> whose members use the pine tree emoji as an identity marker.

In any case, the existence of outlandish and particular traits within the Alt-Right's discourse doesn't imply that the movement shouldn't be associated with ideologies from the past, but that it is a new manifestation of them. In fact, rather than it being a decentralized fascist organization that uses memes and thrives online what should shock us is a contemporary fascist organization that acts exactly as its predecessors from the interwar period. The Alt-Right is just the twenty-first-century expression of an old phenomenon. For example, although some might point to the fact that today there's not a fascist mass party in order to justify their skepticism towards the existence of contemporary fascism, Roger Griffin noted in 2008 (two years before the emergence of the Alt-Right) that present-day fascist organizations are "groupuscular" and rhizomatic and focus on spreading their ideas rather than on creating competitive political parties.<sup>69</sup>

This fits with Thomas J. Main's view of the Alt-Right as "not a constituency with political goals but an intellectual movement that shapes how people think about politics."<sup>70</sup> Such shift from mass mobilizations to small-group influence is related to one of the most important contemporary thinkers of the radical right: Alain De Benoist. Partly drawing from Antonio Gramsci's ideas on politics and culture, De Benoist and other thinkers from the *Nouvelle Droite* developed the plan of articulating a meta-political approach to politics, i.e., one based on a will to carry a cultural struggle that affects the whole political sphere instead of creating a political party that would stand in general elections. This implies favoring small but influential organizations over mass parties, although these are of course the main political actors that need to be influenced.

Although neofascism had a relative success (given the adverse historical context) in the United States during the 1950s and the 1960s, the Alt-Right didn't evolved from such ideology. Thomas J. Main, arguably the author of the most important work on the Alt-Right's ideology, emphasizes that the Alt-Right is not the product of American neo-Nazism, but of paleoconservatism. Paleoconservatism is a branch of conservatism that, in opposition to neoconservatism,



took a drastic turn in the mid-1980s and developed four major themes: a radical rejection of liberal democracy, anti-Semitism, racialism, and anti-Americanism.<sup>71</sup>

This means that the members of the Alt-Right derive their ideals from thinkers such as Paul Gottfried rather than George Lincoln Rockwell (the famous neofascist who founded the American Nazi Party in 1959), although American neo-Nazism remains an important influence within the movement.<sup>72</sup> Despite being an offshoot of conservatism, paleoconservatism is undoubtedly part of the radical right. Gottfried, for example, went as far as to praise Mussolini as the founder of a more acceptable type of fascism, allegedly significantly different from the German.<sup>73</sup>

The passage from paleoconservatism to the Alt-Right, headed by Richard Spencer, is therefore not a passage from a moderate form of conservatism to a radical one, but a significant qualitative change between two forms of right-wing radicalism. A historical analogy might be pertinent to clarify this. It could be said that the difference between the paleoconservatives and the Alt-Right is parallel to the one between the *Konservative Revolution* and the Nazis. Undoubtedly, thinkers such as Oswald Spengler, Carl Schmitt, Moeller van der Bruck, Ernst Niekisch, or Edgar Julius Jung were essential influences for the NSDAP, but they certainly didn't share all of its ideas, nor can all of them be considered fascists.

## The Alt-Right and Neocofascism

The Alt-Right has its own "green wing," although inasmuch as ecofascism is today more marginal than it was a century ago (and fascism itself is incomparably weaker), it is inevitably not as well-organized as its German precursor. However, we should bear in mind that the formation of the ecofascist ideology in Germany took decades to materialize. This could also be the case of a new form of ecofascism (which has been labeled in this article simply as "neocofascism," following the diachronic distinction between fascism and neofascism), of which only the first steps can be observed at the moment but that could flourish in a context of global warming and environmental anxieties.

Such context is a truly transformative one, for climate change represents a challenge for the whole political and economic system. The unequivocal scientific evidence presents a world of rising global temperatures, warming



oceans, glacial retreat, rising sea levels, and extreme climate events. The global character of these dangers and their capacity of quick disruption will defy not only our sociopolitical systems, but also our worldviews and some of our most basic assumptions. Capitalism will have to adapt to this bleak picture, and if it fails to do so, it will be naturally challenged by both the radical right and the radical left. In such circumstances it is inevitable that the totality of the political spectrum becomes aware of these challenges and modifies strategies accordingly, incorporating both a cognitive map of the situation and a series of potential solutions to it.

American neocofascism is already adapting to this condition. Richard Spencer himself pointed at the importance of the environment for the Alt-Right in the 2017 manifesto *What it Means to be Alt-Right*.<sup>74</sup> In that brief proclamation, after outlining the centrality of race and anti-Semitism within the Alt-Right's ideological program, he refers to man's relationship with nature. Just like the Romantics and *völkisch* thinkers, he states that a human being is part of the natural order, although he considers it as "being in it and above it,"<sup>75</sup> thereby manifesting the tensions between right-wing hierarchism and naturalism, two tendencies that were already in opposition in early German ecofascism, as noted by Frank Uekötter.<sup>76</sup> According to Spencer, "the natural world—and our experience of it—is an end in itself,"<sup>77</sup> which means rejecting the conservative view of nature (based on aesthetic contemplation and economic exploitation)<sup>78</sup> and embracing ecofascist postulates.

As Matthew Phelan notes, Spencer's ecofascist proclamations are not only the assertion of a series of ideas but also a stance against other views within the American radical right, such as "the idea that climate change is a hoax, that the environmental movement is a crypto-socialist bid for state intervention (effectively, the Koch-funded Tea Party line)."<sup>79</sup> This tension between those who spread conspiracy theories that point to the left and to certain elites and neocofascists will most likely be the main cleavage within the contemporary radical right regarding climate change and environmental protection. In any case, the popularity of the environmentalist movement (Richard Spencer himself praised Greta Thunberg recently)<sup>80</sup> and the undeniable scientific evidence invite to foresee a radical right that pays attention to such issues rather than a "denialist" one.

The Alt-Right has also shown interest in other contemporary political issues related to the environmentalist movement. One of them is food



consumption. As Vasile Stănescu has shown, the Alt-Right has engaged in several debates concerning diet and vegetarianism.<sup>81</sup> One of the positions that have resulted from such a rapprochement with contemporary dietary concerns is a cult for milk consumption as a synonym of masculinity and racial purity that reproduces some nineteenth-century colonialist stances.<sup>82</sup> Others have embraced vegetarianism (as famously did both Adolf Hitler and Heinrich Himmler) or veganism, insisting on their online messages on how such dietary option is a proof of Aryan strength and connectedness with all living beings rather than something that belongs to “pacifistic hippy caricatures.”<sup>83</sup>

Some of these positions are strongly influenced by neopagan and mystic currents.<sup>84</sup> This commitment with mythical discourses can be found in prominent Alt-Right figures. Such is the case of Greg Johnson, the editor-in-chief of Counter Currents Publishing, one of the pillars of Alt-Right publishing.<sup>85</sup> In 2011, while reviewing a book that fantasizes about Hyperborea (the mythical polar land that is supposed to be the original home of the Aryan race), Johnson stated that the movement needed to focus on myths rather than in facts insofar as “myths, unlike science and policy studies, resonate deeply in the soul and reach the wellsprings of action. Myths can inspire collective action to change the world.”<sup>86</sup> This statement is as well a diatribe against “the insufficiency of backwards-looking conservatism and data-driven empiricism to preserve and elevate our race.”<sup>87</sup>

It is therefore hardly surprising that this neofascist revival has developed links with American neopagan circles that engage in environmentalist stances. Groups such as the Wolves of Vinland (a Norse neopagan organization based in Virginia), who promote white nationalist and male chauvinistic views, have been found to have links with the National Policy Institute, headed by Richard Spencer.<sup>88</sup> The Asatru Folk Assembly, another neopagan group, has also prospered thanks to the emergence of the Alt-Right.<sup>89</sup> The Southern Poverty Law Center (SPLC) characterizes these groups as neo-*völkisch* and links their ideas to “ideals and myths that are derived from the *Völkisch* movement of the nineteenth and twentieth centuries.”<sup>90</sup> These organizations share with their ideological forebears a view of nature as a redeemer from the evils of modernity and urban life, along with a patriarchal longing for an uncivilized lifestyle that can liberate forces that are allegedly repressed in modern society.



It is also symptomatic that Richard Spencer has created special links with movements such as the Nordic Resistance Movement (*Nordiska motståndsrörelsen*),<sup>91</sup> a Nordic supranational association (established in Sweden, Norway, and Finland) that emphasizes the importance of environmentalism and thereby continues the ecofascist enterprise.<sup>92</sup> This neocofascist connection with the Nordic countries is far from trivial. Finland is the home country of Pentti Linkola, an influential (and openly ecofascist) thinker whose works advocate dictatorship and downsizing population and who claims that “everything that we have developed during the past one-hundred years needs to be destroyed.”<sup>93</sup> An unknown thinker outside Finland, Linkola’s renewal of ecofascist postulates is becoming more and more popular in Alt-Right circles.<sup>94</sup>

This mystic and neopagan road to neocofascism allows us to better understand the growing cult of Savitri Devi (a central figure within post-1945 ecofascism) among alt-righters.<sup>95</sup> Savitri Devi (born Maximiani Portas) was an important representative of postwar esoteric fascism<sup>96</sup> as well as a committed advocate of animal rights and “deep ecology,” a philosophy that stresses nature’s inherent value. She claimed that Hitler was a Hindu avatar (i.e., the incarnation of Vishnu and therefore a kind of semi-god) and even disseminated Nazi propaganda in West Germany in 1948, before engaging with the international neofascist movement (meeting George Lincoln Rockwell on several occasions) and then moving to India with her husband, a Bengal Brahmin who shared her ideological convictions regarding the common Aryan ancestry of Indo-European societies.

Savitri Devi could act as an intellectual bridge between ecofascism and neocofascism, for her ideas are capable of pursuing the ecofascist enterprise that started at the end of the nineteenth century while at the same time being appealing to today’s and tomorrow’s right-wing radicals. Furthermore, her works on animal rights and environmentalism (*The Impeachment of Man*,<sup>97</sup> written in 1959, being the most important among them) go beyond the nineteenth-century Romanticism professed by the aforementioned German thinkers and can connect with contemporary New Age and biocentrist ideas.

But the influence of Hindu mysticism (an important source of myths and ideas for the German *Blut und Boden* movement)<sup>98</sup> among alt-righters goes beyond Savitri Devi’s peculiar amalgamation of deep ecology, Hinduism, and Nazism. Julius Evola (born Giulio Cesare Andrea Evola), an important intellectual of postwar fascism, is also popular among the American radical



right. Evola held a kind of spiritual and metaphysical racism more similar to the most mystic factions of the *Blut und Boden* groups than to biological racism (which he criticized).<sup>99</sup> He posited that twentieth-century Europe was going through the Kali Yuga, an era of chaos and decay according to the Hindu tradition, and that Hitler and Mussolini represented a possibility to end it and restore the rule of the Aryan race.<sup>100</sup> Therefore, it was necessary to “ride the tiger of modernity” to overcome this “age of dissolution.”<sup>101</sup> Julius Evola was surprisingly praised by Steve Bannon<sup>102</sup> and his idea of the Kali Yuga has become a meme among alt-righters (who created images of a surfing skeleton with the message “Surf the Kali Yuga”).<sup>103</sup>

This Evolian understanding of the Kali Yuga, whose reception is, like that of other radical ideas, both genuine and somewhat ironic, leads us to a key component of neofascism that represents yet another similarity with its ideological forebear, i.e., the idea of pessimism, closely related to the notions of decadence and palingenesis. It was probably introduced into the radical right by Oswald Spengler<sup>104</sup> (under the inspiration of Friedrich Nietzsche) at the beginning of the twentieth century and became a commonplace for right-wing radicals ever since. According to Roger Griffin, both the sensation of decadence and pessimism (associated with modernity’s malaises) are central to fascist ideology.<sup>105</sup> In his analysis of George Sorel’s works as the intellectual origins of fascism, Zeev Sternhell points at the importance of pessimism as well.<sup>106</sup> The idea of inevitable decay leads fascist thinkers to imagine an apocalyptic rebirth generally associated with a national (or ethnic) resurgence.<sup>107</sup>

The most prominent Alt-Right figures have expressed this sensation of decay on several occasions. According to Richard Spencer the situation of the United States can be compared to the decline of the Roman Empire, and such decline is orchestrated by elites who “want a world without roots . . . a world without meaning . . . a flat grey-on-grey world, one economic market for them to manipulate.”<sup>108</sup> He has also defined U.S. society as being perverse and decadent and the United States as a diseased country.<sup>109</sup> Against this dramatic situation he propounds the creation of a “white ethno-state on the North American continent . . . a reconstitution of the Roman Empire.”<sup>110</sup> Such new civilization “would be, to borrow the title of a novel by Theodor Herzl (one of the founding fathers of Zionism), an *Altneuland*—an old, new country.”<sup>111</sup>

Climate change, with its pessimistic prospect of natural disasters and social chaos, is a great opportunity for this kind of discourse to thrive. After all,



fascism grows from the seeds of fear and turmoil, which is why Roger Griffin refers to it using the theological concept of *creatio ex profundis* (an act of creativity defying the unknown, or the chaotic).<sup>112</sup> This sense of apocalyptic decline was shared by *völkisch* thinkers at the end of the nineteenth century who saw the natural world being threatened by the industrial revolution and capitalism.<sup>113</sup> It is not hard to imagine the return of such discourses, which didn't fade away after the Second World War but were rearticulated by important radical right thinkers such as Ernst Jünger<sup>114</sup> and, as mentioned previously, by esoteric fascists such as Julius Evola and Savitri Devi. The fascist tradition already harbors an important focus on decline and pessimism but, more important, it has produced an amalgamation of such mindsets with environmental anxiety. Thus the radical right, as the Alt-Right is proof of, possesses a great "ideological reserve" for the ongoing climate change distress, and it is already making use of it in order to radicalize American right-wingers, especially the youngsters. As Jeet Heer pointed out:

This combination of a white nationalism with angst about the prospects for human survival is a perfect recipe for radicalizing young right-wingers and taking Trumpian themes to a new level of extremism. Instead of the merely restorationist day-dream of "making American great again," the extreme right is using social media agitprop and the propaganda of the deed to harden young white Americans for a global race war fought over diminishing resources. The very real dangers of climate change provide race war fantasists the dystopian background they need to give urgency to their violent agenda.<sup>115</sup>

That said, American neocofascism faces at least two important challenges in comparison with its ideological forebears. First, the demographic structure of the United States has little to do with nineteenth-century Germany. Ecofascism was professed mainly by members of the urban middle class, who romanticized rural life and the figure of the traditional peasant, but the challenge for contemporary neocofascists is that such world seems to have faded away in Western societies. Agricultural mechanization and technological advances have reduced agricultural workers to a minority, and one in which immigrants play an important role. Yet it remains possible to appeal politically to this social group, as Trump has done on several occasions.<sup>116</sup> This is because political imaginaries are de facto autonomous from social reality, as the "imagined nature" created by the young *völkisch* militants shows.



The Alt-Right could focus on ideal representations of rural American life, as opposed to the lifestyle of the “coastal elites,” a well-established ideological trope in the United States,<sup>117</sup> although that would imply a heterogeneous implementation in geographic terms. Be that as it may, it is clear that contemporary neocofascists might have to engage in New Age forms of Romanticism rather than in idealizations of rural life, inasmuch as we now live in a “rurban world” (i.e., a system in which rural and urban spaces are interpenetrated) in which it is increasingly difficult to identify and romanticize the country life.

Second, contemporary notions of nature are different from the ones that emerged in the wake of industrialization. German Romantics reacted to both industrial capitalism and scientific rationalism by “reenchanted” nature, thereby perceiving it as a source of mystic energies that couldn’t be understood from a positivist point of view. It is evident that this view of nature still operates today, but in a more marginal way. Modernity meant the demystification of the world, but such a shift was accompanied by the birth of new political metanarratives and spiritualist (and often orientalist) reactions, whereas postmodernity has made those difficult to develop. Among the three main representations of nature according to Serge Moscovici (organic, cybernetic, and mechanistic),<sup>118</sup> the first (defended by the Romantics) seems to be the least popular, which makes it difficult to spread the idea that there’s a mystic unity among the nation, the *ethnos*, and the “national” natural world. That said, the capability of nationalism to bridge heterogeneous elements (e.g., nature and patriotism) shouldn’t be underestimated, and neocofascists might be able to do so in the future.

## Right-Wing Environmentalism beyond Neocofascism

Although this article focuses on the Alt-Right, there are other movements that integrate environmentalist and radical-right or right-wing stances in their discourses. For example, among conservative environmentalists it is relatively easy to find the idea that immigration and overpopulation are to blame for environmental collapse. These ideas are sometimes disseminated by single intellectuals who, despite having links with right-wing organizations, don’t offer such a consistent worldview but instead will propound concrete ideas or policy proposals for years to come. Rather than overtly neofascist



views (which tend to be revolutionary, idealistic, and ultranationalist), these authors present their proposals as pragmatic solutions to environmental and economic problems. Although they are closer to conservatism than to fascism, their views can easily be assimilated and appropriated by more radical groups and could become a gateway to these.

The most famous among such thinkers is probably John Tanton, the recently deceased founder of the Federation for American Immigration Reform (FAIR). Although he has been included in the list of contemporary ecofascist by several pundits,<sup>119, 120</sup> he should be seen instead as a conservative environmentalist. Apart from advocating eugenics<sup>121</sup> and funding several anti-immigration organizations, Tanton is known for his articulation of xenophobic and environmentalist stances. According to him, in order to protect America's biosphere it is imperative to stop mass immigration, inasmuch as overpopulation is a threat to nature.<sup>122</sup> This idea is shared by Jared Taylor (a white nationalist with links to the Alt-Right), who wonders "how can we possibly claim to be fighting environmental degradation or hope for energy independence when we import a million or more people every year?"<sup>123</sup> Tanton and his ecoconservative supporters were influenced by the neo-Malthusian ideas that spread throughout the United States during the 1960s,<sup>124</sup> which are a good example of a potential intellectual bridge between different forms of right-wing environmentalism inasmuch as the control of population growth can be used for multiple ideological purposes.

These views have partly infiltrated American environmental organizations such as the Sierra Club.<sup>125</sup> Tanton himself was part of the club and actively tried to turn it into an anti-immigration political organization.<sup>126</sup> His efforts were not in vain, for until the 1980s the Sierra Club was in fact a promoter of the idea that there is a correlation between mass immigration and environmental damage.<sup>127</sup> The internal debate of 1997–98 was of major importance not only for the Club, but also for the anti-immigration-environmentalist synthesis. In it a group of members claimed that in order to protect the American environment not only must there be a reduction of natural population growth but an end of immigration would also be necessary. The focus was not only on immigrants, but also on national minorities deemed to be "poorly educated and highly fertile."<sup>128</sup>

Among ecoconservatives contemporary demographic and social anxieties are thereby linked to a concern for environmental well-being, a path that some right-wing governments are starting to follow. This is already the case



in Austria,<sup>129</sup> Hungary,<sup>130</sup> and Poland.<sup>131</sup> It would not be surprising if some of these turn into a form of ecoauthoritarianism whereby some forms of illiberalism and social control are justified in the name of preventing or fixing environmental problems. Environmental authoritarianism is for now absent in the West, but it is already a reality in China, where climate distress and a high degree of air pollution have justified top-down solutions without any mechanism for channeling public involvement within the process.<sup>132</sup>

However, the ecoconservative and the ecoauthoritarian intertwinements between the *ethnos* and the environment, although part of the illiberal tradition, seem to be somewhat “disenchanted” and rationalized, inasmuch as they are presented with socioeconomic arguments rather than a transformative point of view. This is a key difference between neocofascism and other right-wing ecologist tendencies. Whereas neocofascists yearn for a radical cultural change whereby our conceptions about race, nature and the nation would be swept away, right-wing environmentalists seem to merely address concrete environmental issues from their ideological point of view. Yet as mentioned (it is important to emphasize the dynamic and elastic potential of environmentalism) these differences don’t prevent a transfer of ideas between groups whose ideological frontiers have historically been porous.

Indeed, political ideas are always open to resignification and reappropriation (this is, as mentioned, the methodological premise of this article), and environmentalism is becoming a great example of it. For instance, some neofascists find inspiration in apocalyptic perspectives described by authors that are far from being radical rightists, such as Paul Ehrlich.<sup>133</sup> Ehrlich (who was also influenced by neo-Malthusianism) stated that overpopulation was leading the human race to mass starvation and all kinds of social distresses and eventually put the focus on mass immigration.<sup>134</sup> As with some of Petti Linkola’s eliminationist ideas, Ehrlich’s could influence ecofascism as a pessimism booster, but he will fail to become part of the solutions this ideology proposes. This is because, as we have already pointed, out ecofascism (and more broadly fascism itself) is a utopian ideology that, in the face of a terrible sense of decay and hopelessness, proposes a nationalist palingenesis. Therefore it can feed on demographic anxieties and environmental fears, but it won’t embrace any nihilistic “solution” inasmuch as its pessimistic mindset is limited to criticizing the world it seeks to overcome; it cannot (logically) permeate its transformative political project.



Environmentalism has also intersected with market-oriented ideologies associated with laissez-faire economics that have little to do with neocofascism. Such is the case of what might be called econeoliberalism, i.e., the branch of neoliberalism that sees environmental problems as a product of state intervention. Their solution is in the hands of consumers and entrepreneurs. Erik Swyngedouw refers to econeoliberalism as “the privatization of climate” whereby “the field of neoliberal economy is widened.”<sup>135</sup> Economists such as Robert Costanza and Monica Grasso, for example, refer to the environment in utilitarian and economic terms such as “eco-system services,” “natural capital stocks,” or “the economic value of the planet,” and advocate for market-oriented reforms of our relationship with nature.<sup>136</sup> Such views can be found in important international organizations such as the International Monetary Fund, the World Bank, and the United Nations. For example, in 2008 the United Nations Environmental Programme (UNEP) launched its “Global Green New Deal,” a set of proposals that underlined the importance of technological innovation, micro-credits, liberalization, and economic growth.<sup>137</sup>

Right-wing environmentalist stances in the United States have found another niche beyond political organizations and ecologist clubs: terrorism. Right-wing terrorism accounts for the majority of attacks that took place within the country in the last decade<sup>138</sup> and an important number of them were inspired by environmentalist positions. This was the case of Patrick Cursius, the author of the El Paso shooting of August 2019, who in his manifesto (posted on 8chan, a website frequented by alt-righters and other supporters of the radical right) showed concerns for the environment and blamed immigrants and “urban sprawling”<sup>139</sup> for climate change. The Christchurch shooter, who was an inspiration for Cursius, went further and directly defined himself as an ecofascist in his manifesto.<sup>140</sup>

Both were partly inspired by a book that has become a sort of Bible for the contemporary Western radical right: *The Great Replacement* (*Le grand remplacement*) by Renaud Camus. In this book Camus warns about the fact that white European people are being consciously replaced by immigrants in order to create a more compliant population consisting of replaceable individuals lacking any national or ethnic identity.<sup>141</sup> This conspiracy theory (which is far from being groundbreaking as a radical right idea) is based mainly on demographic anxieties, but it includes ecological concerns as well,<sup>142</sup> which has led Clément Gutern to speak of *écologie intégrale*<sup>143</sup> (integral ecology,



as in ‘integral nationalism,’ the ideology developed by Charles Maurras) inasmuch as there is an integration of social, demographic, national, ethnic and environmental concerns.

But the most notorious example of right-wing environmentalist inspiration for terrorist attacks is undoubtedly Ted Kaczynski, better known as Unabomber, the author of several attacks between 1978 and 1995. Kaczynski’s manifesto, *Industrial Society and Its Future*, is a harsh critique against industrialism and leftism that echoes several environmentalist views and fears that were present in late nineteenth-century Germany. In it Kaczynski also criticizes feminism and technological progress.<sup>144</sup> It is curious that he was influenced in part by left-wing intellectuals such as Herbert Marcuse and Jacques Ellul. Kaczynski’s work has become “one of the most well-known rhetorical artifacts endorsing environmental extremism,”<sup>145</sup> and he is today praised in Alt-Right circles.<sup>146</sup> His ideas are difficult to classify, for he held an eclectic approach to environmental issues, but he remains part of the radical right, an ideological family in which, as this article has shown, different and often contradictory stances can coexist.

## Conclusions

Although today it represents a marginal political current, neocofascism is likely to become increasingly important in the coming years or decades, like other forms of right-wing environmentalism. This is because environmentalism is already developing into a meta-ideology, at least in Western countries. Here we use Andrew Heywood’s definition of meta-ideology as “a body of ideas that lays down the grounds upon which political and ideological debate can take place.”<sup>147</sup> This implies that environmental stances are likely to be part of practically every ideological position in the near future in one way or another, to the extent one can foresee. Therefore, rather than a confrontation between environmentalists and antienvironmentalists, what may lie ahead is an encounter between competing environmentalisms.

This polymorphous aspect of environmentalism is why it is important to differentiate between the various forms of right-wing environmentalism in order to avoid overusing neocofascism, as has always been the case with “fascism.” At the moment, the ecofascist revival cannot be considered



a well-articulated ideology, but this doesn't imply that it doesn't have the potential to become one. Let's not forget that German ecofascism only became a consistent worldview after the First World War, following decades of ideology building and contradictory moves.

The conditions in which ecofascism thrived at the beginning of the twentieth century (e.g., the spread of romantic ideas, nationalism, ecoanxiety, environmental distress, xenophobia) are alive and well today, even if the romantic impulse has lost momentum. Moreover, the West is witnessing a series of nationalist turns that can potentially normalize or legitimize radical ideas that were taboo until recently, and the economic and geopolitical prospects for the future do not invite us to imagine a stable political landscape. Neocofascists have to face tremendous political and cultural obstacles, but they also have a historic opportunity to reinvigorate a series of ideas that can connect with highly contemporary issues. It is difficult to predict how things will be in the future, but one thing is for certain: neocofascism, in a more or less residual way, will be part of it.

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# EXHIBIT 11



# The Secret Histories of the Radical Right on 4chan/pol

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## 1. Introduction

Fringe web culture has brought a number of peculiar radical right intellectual traditions into the “mainstream” web. Jordan Peterson and other “modern philosophers” of Internet culture (Pomerantsev, 2019) are the most well-known sources for the “alt-right” style of online traditionalism that has taken over various social media platforms. Nevertheless, a number of the trending ideas in these discussions may be understood as having a more subcultural derivation which, upon closer inspection, also appears to draw on esoteric traditions in political thought. As previous research has demonstrated, there is a relationship of influence between the subcultural margins of web, in particular the “chan” image boards, and mainstream social media, e.g. [YouTube](#) (Tuters, 2018). On the “politically incorrect” discussion boards of 8chan and of 4chan, both of which have been associated with acts of extreme violence in recent years, one regularly encounters political discussions that are framed in terms of esoteric imaginings of the historical past, or what historian Louie Dean Valencia-García refers to as “alt-histories”. On these discussion boards, concepts like Kali Yuga and the symbol of the Black Sun (which had been circulating in the far-right underground circles since the Seventies) are combined with contemporary subcultural web aesthetics in order to create edgy “fashwave” memes, which in turn appear to have an influence on the trend for occult aesthetics in alt-right style more generally. There have been countless journalist exposés and academic studies on apparent mainstreaming of alt-right style (Miller-Idriss, 2017). However if it holds that “the real creative energy behind the new right-wing sensibility online today springs from anonymous chan culture” (Nagle 2017), the objective of this research is to scrutinize how anonymous chan culture creates alt-history.

In doing alt-history, anonymous chan culture may be understood as giving a contemporary vernacular form to a long tradition of post-war far-right political thought. As elaborated upon by a number of historians of the far-right as well as of esotericism (Griffin 2000, Goodrick-Clarke 2001, Sedgewick 2004, Ross 2017), this tradition involves a combination of anti-modernism, aristocratic elitism and Aryan esotericism, into a peculiar cocktail sometimes referred to as esoteric fascism. As Goodrick-Clarke (2001) notes in his study on the neo-Nazi new religious movements that emerged in the United States and Europe in the aftermath of the Sixties counterculture, there is nothing especially new about this phenomenon. As he notes, a preoccupation with occult symbology and apocalypticism as well as anti-semitic demonology and hatred of the “dark races” are all symptomatic of the extreme right underground. What has changed is the medium for the circulation of these ideas. Whilst in the past the reach of these subcultures was relatively limited to the 'zine underground, through the medium of Internet memes these ideas may be acquiring a broader reach. A note on this matter before proceeding: as researchers of the alt-right, we are sensitive to the criticism that any media attention might help legitimize an otherwise marginal phenomenon (see Phillips, 2018). The criticism here is that some exposés on anonymous chan culture have bestowed them with “a kind of atemporal, almost godlike power” (Phillips et al., 2017),



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in the process feeding into the fantasy of their outsized dark influence. With this potential criticism in mind we do, nevertheless, think it important to consider the possibility of how anonymous chan culture may innovate new ways to for the dissemination of old and potentially dangerous ideas.

Anonymous chan culture's apparent success in repackaging esoteric fascism as "fashwave" may arguably be understood as a successful instance far-right "metapolitics", a Gramscianism strategy which has been much discussed by far-right intellectuals over the course of many decades (see Griffin, 2000). The vernacular shorthand for this far-right project of metapolitics is called "taking the red pill", an expression popularized by the alt-right which refers an esoteric experience of awakening from the induced somnambulism of liberal mainstream society - this notion of awakening was also "the great refrain" of the post-countercultural Californian "New Age" as well (Zandbergen, 2011:7). A well known pop-cultural reference to the film *The Matrix* (1999), in taking the red pill one is confronted by "desert of the real", which is to say the unpleasant truths which those sleepwalking through disregard. It follows that being confronted by this shockingly brutal alternative reality implies locating oneself in a different historical timeline, and alt-history. As we will explore below, through the eyes of much of radical right political culture on 8chan and 4chan/pol/, this implies rediscovering the "wrong" side of history, which in this case is not (just) treated as a source of popular fascination, conspiracies and esotericism, but as a legitimate source of ideas from which to eventually "reconquer" history from the perspective of its losers. It is here that we can also find a degree of continuity between this anonymous chan culture and those neo-Nazi new religious movements that preceded them. While it would be inaccurate to generalize too broadly, as it would project an unjustified degree of coherence onto anonymous chan culture, we can nevertheless detect a relatively clear and consistent preoccupation with esoteric formulation of an alternative historiography for "Western" decline and rebirth. And in the same way that many commentators have drawn parallels between the alt-right and Trump, we can see these alt-history formulations showing up in the political mainstream as well.

Following their recent victory in which they made substantial gains in the Dutch senate, the leader of the Forum voor Democratie party, Thierry Baudet, delivered a controversial speech, whereupon he described Dutch citizens as standing "amid the debris of what was once the most beautiful, the greatest civilization the world has ever known"; one that, "just like those other countries of [the] boreal world, [...] are being destroyed by the people who should protect us." (Mersbergen, 2019). Baudet was questioned by the Dutch television host Robert Jensen for using the term boreal. He responded to these allegations by claiming that he was being "poetic" (Common Sense TV, 2019). If we take Baudet at his word, how are we to interpret his poetry? The most charitable interpretation would be that Baudet used this term to frame a clash of civilizations narrative in poetic terms. From this perspective, boreal is a code-word or "dog-whistle" for northern-European or simply white. Consistent with this interpretation, it has been argued that Baudet was in fact "dog-whistling" to the alt-right narrative of "white genocide" or "replacement", which finds liberal multiculturalism guilty of destroying the patrimony European heritage (Valk and Rusman, 2019). In fact, boreal is actually a term from forestry with no prior history of use in political communications — apart from having once been used once by Le Pen to speak of his desire for a "white world" (Le Pen, 2015). An etymologically similar term which refers to Northern European countries as the birthplace of the Aryan race, hyperborean, can however be found in esoteric fascist literature (see Evola, 1934). Whether or not Baudet, who holds a PhD in political philosophy, and has a track record of exchanging ideas with extreme-right thinkers, was aware that this term would function as esoteric fascist dog-whistle for those in the know, is not the point. What is important for our purposes here is that, even in a country like The Netherlands, considered by some as the birthplace of the very liberal system of governance that has come to shape the modern world (Shorto, 2013), in the current right-wing populist political climate we can find expressions of the alt-histories of esoteric fascism resonating between the margins and the mainstream, as prominently seen in references to Evola by former White House Chief Strategist Steve Bannon (Feder, 2016).

As we have stated above, the present analysis addresses the role of alt-histories within contemporary anonymous chan culture. Its findings are divided into two main sections. The first section explores the dissemination of several sources of far-right political thought (and in particular of esoteric fascism) on 4chan/pol overtime in the form of so-called book dumps, i.e. links leading to large repositories of visual and textual files organised by user-selected themes, such as books, pamphlets, photographs, films relating to National Socialism. It also includes visualisations of anons' reception of a peculiar key term from esoteric fascist writings: "Kali Yuga". The second section comprises a topography of the board's conversations about (Western) history overtime, including indications as to which specific historical periods have received the most engagement, as well as network-based reconstructions of conversations about two time intervals: the Kali Yuga and various episodes anons describe as constituting a Huntingtonian "clash of civilizations" between East and West.

### 3. Research Questions

In order to investigate how it is that anonymous chan culture do alt-history, we began by exploring the context in which users have engaged with esoteric fascist ideas on 4chan and advanced the following research questions:

1. How did esoteric fascism become so popular on the fringe?
2. What alternative interpretations of history do 4chan anons produce, and what interpretations of contemporary political issues and European history do they propose?

### 4. Methodology and initial datasets



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The first step we needed to undertake to begin examining what readings of histories could be found on 4chan/pol was to search for historical information on the board: in particular, we were interested in references to historical periods, interpretations of those periods, historical sources, historical figures and meta-historical terms, such as “decadence”, “progress”, “stagnation”, “cyclical” and so on. Among the various techniques that could be employed to accomplish this task we selected Named-entity recognition (NER), a subtask of information extraction that seeks to locate and classify named entity mentions in unstructured text into predefined categories such as the person names, organizations, locations and so on. Due to the size and heterogeneity of 4chan/pol, however, we needed to shrink our query dramatically. We thus began by relying on an expert list of historical vocabulary often found in radical right discourse, compiled by radical right expert Valencia-García. This list combined terms referring to historical periods and meta-historical terms. With bigrams, we snowballed each of these terms to detect associated terms. The resulting list included a total of 27 terms. Each of these constituted potential queries to run on 4CAT and obtain corresponding posts, general threads, and images.

## Collecting posts on four historical periods

Having obtained an exhaustive 27-item list, we then proceeded to filter all the terms that referred to historical periods (e.g. Renaissance, Nazism, etc.), differentiating them from those linked to “meta-histories” (e.g. decline, resurgence). Though the former included many formal historical periods, it also featured terms referring to fictional or mythical times, e.g. those associated with Atlantis or the Kali Yuga. Aware of their importance as radical right talking points, we have equally taken these into account.

Before diving into any 4chan/pol threads on historical matters, we decided to further shrink down the list, only focussing on the most discussed historical topics. Results obtained with 4CAT show that the most spoken-about events of all time were: the Crusades, the Reconquista, the Third Reich and, increasingly, Atlantis and other myths, such as the Kali Yuga and the Antediluvian period.

## Reconstituting 4chan/pol's "historical timeline(s)"

As our interest was to reconstitute a timeline of events which generated the most engagement overtime, we proceeded to filter specific historical events from posts on each of the four selected periods. In this sense, we were also interested in detecting the most relevant specific events of each period considered, i.e. which events from the Crusade or from the Reconquista anons cite more frequently. In order to filter historical events from historical periods, our go-to technique was once again Named-entity Recognition. Though powerful, we realised that this technique fails to capture the ins and outs of 4chan/pol vernacular: for example, it does not detect events written in lower case (e.g., “the spanish inquisition”), nor does it link these events with their numerical form (e.g., “1478”), nor does it capture vernacular expressions of those events.

What we resorted on instead was scraping Wikipedia links from the posts on each historical period and the times they were cited. Manually, historical dates in Wikipedia pages of those events were detected and subsequently plotted in a timeline of the above-mentioned historical periods, noting the times that each event was cited.

## Exploring two case studies

The four historical events we chose to focus on could be split into two categories: one whereby history is told from the perspective of “the clash of civilisations” (e.g. the Reconquista, the Crusades, etc.); and the other - which has gathered increasing attention - that refers to esoteric readings of modern history, in particular through the lenses of the Kali Yuga. Another category maps out the beginnings of the white race, spanning (e.g., from “Polarian”, Hyperborean, Lemurian, or Hyperborean times and possibly the Atlantean period), though we lacked time to explore them in depth.

Henceforth, we focused on posts that referred to the Kali Yuga and the Crusades. We examined each of these periods by first plotting a network graph of prominent words per threads (each thread constituting a cluster); we did so to pinpoint the different conversations anons spoke of these historical periods.

## 5. Findings

Presenting the research outcomes, this section documents: (1) an overall image of the engagement of users on 4chan /pol/ with particular historical periods, (2) the usage of historical Wikipedia pages by anons and the different vernaculars of describing history on 4chan and Wikipedia, (3) the rise of a specific esoteric meta-historical interpretation of history as being cyclical, and finally (4) a comparison between the historical references on the christchurch shooter's guns and the engagement with those periods on 4chan /pol/.

## Historical Emphasizing

As described in the previous section, starting from our expert list of 27 historical periods we measured the frequency of references to those historical periods on 4chan /pol/ in order to ascertain what historical periods were/are of primary interest to the platform (Figure 1). Having established the frequency of engagement, we further set out to investigate the



following three periods: (1) The Crusades, (2) WWII, and (3) Atlantis. The first two being of interest as most engaged with “consensus history” and the latter as being the most prominent fictitious or “esoteric” historical epoch.

### Engagement with historical periods over time

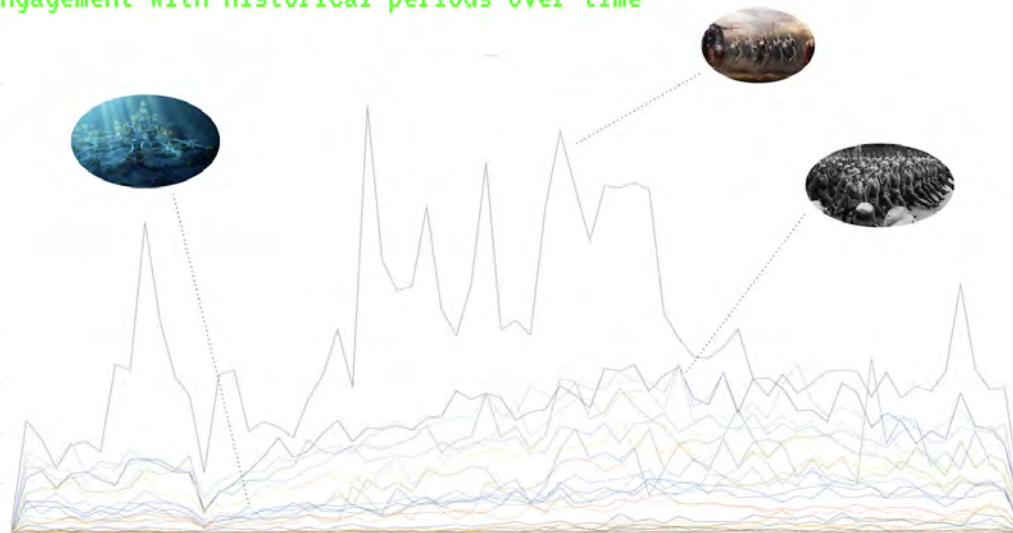


Figure 1: The overall mentions of the 27 historical periods of our expert list per month between 2013 and 2019 on 4chan /pol/. Images highlight the top 3 most frequently mentioned periods: Atlantis, Crusade, WWII (fltr.).

While the engagement with WWII and Atlantis will be solely developed in the section on Wikipedia History, we decided to delve into the comments of the Crusades - as this was by far the most frequently mentioned historical period. By turning the text of the body of posts into word co-locations (Figure 2), one can start to get a sense of the appeal of this historical narrative on 4chan. The crusades derive their interests from being interpreted as evidence of an eternal conflict between The West and the Middle East, between Christianity and Islam. In other words, moments in history that, in their eyes, unify The West in its common Christian identity. Citing Goodrick-Clarke (2001):

In the United States, the doctrine of Christian Identity mixes motifs of heretical Christian dualism with a vicious theology of anti-Semitism, which regards the Jews as the “spawn of Satan.” African Americans, Asians, Hispanics and all other colored peoples are stigmatized as the “mud” races that are now diluting and destroying the Aryan race in its traditional white homelands. Here, Nazi demonology and apocalypticism are freely invoked, together with Hitler worship and Third Reich symbolism, to mobilize violence in support of a white racial state. Other groups mix racism with Nordic pagan religions. The runes are celebrated as magical signs of ancestral heritage and a mystical blood loyalty (ivi:5).

The interpretation of the crusades on 4chan/pol/ can generally be framed in two ways: (1) as a historical period that requires inquiry in terms of what actually happened and, consequently, the effectiveness of specific crusades, and (2) as an interpretive framework for understanding contemporary (political) developments. Figure 3 highlights merely one example of anons posting about the advent of a modern crusade and/or framing specific actors/politicians as leaders of a modern crusade. A point that we will return to in the section on the Christchurch shooter.

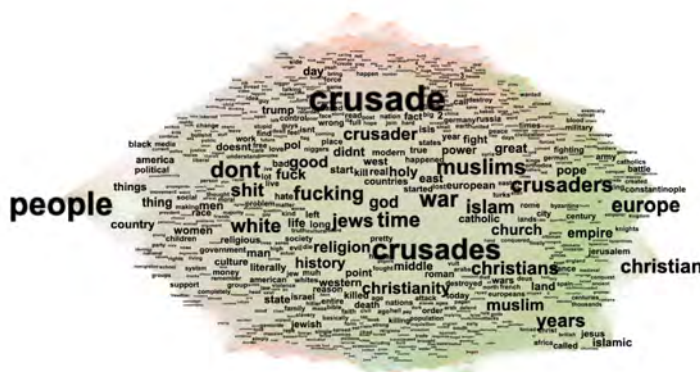


Figure 2: Word collocations with the term “Crusade” in all the comments mentioning “Crusade” on 4chan /pol/ from 2013 till 2019 - visualized with Gephi. The colours are based on modularity clustering and the size of the words refer to the amount of connections a word has to other words.





Figure 3: Anonymous post from the body of comments mentioning the term “Crusade” on 4chan /pol/.

Wikipedia History

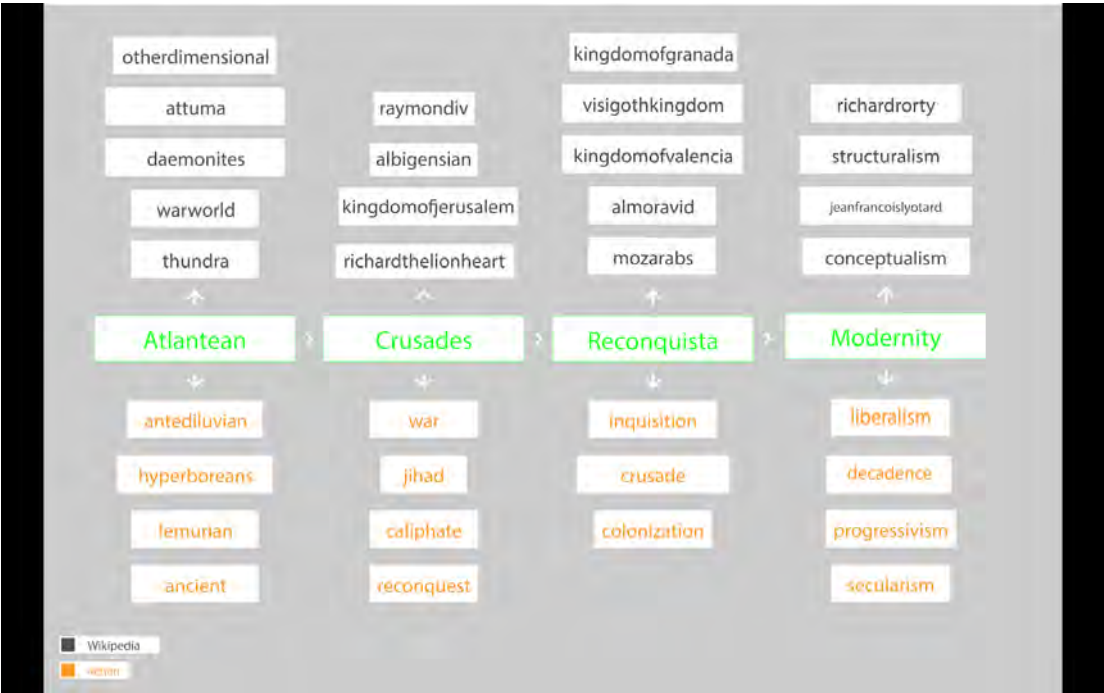


Figure 4: The difference in word collocations with specific historical periods on 4chan and Wikipedia, showcasing only the words that appear either solely on 4chan /pol/ or Wikipedia.

As we were interested in alternative interpretations of history, we turned to Wikipedia so as to identify divergences in how different periods are accounted for. After having selected some of the most discussed moments in history from the above mentioned 27-item index, a list of words commonly associated with those specific historical periods was extracted both by Wikipedia and 4chan. We then filtered the terms reiterated on both platforms, only considering those who appear either on 4chan/pol/ or on Wikipedia. The resulting visualization (Figure 4) highlights the divergent narration produced by anons with respect to the “standard” historical account. As it stands out from the above graph, the vocabulary used to describe the events considered on 4chan threads tends to drift away considerably from the one used on Wikipedia: the Atlantean period, for instance, is associated with Hyperborean civilization and more in general with Hyperborea, the mythical arctic civilization from which - as Bennet claimed - Indo-European culture descends. Esotericists like neo-fascist philosopher Julius Evola also shared the belief in the Hyperborean polar origins of Mankind and in its subsequent devolution upon contact with the southern “Lemurian” race. Further exploration on the usage of Hyperborean-related terms performed on 4chan show the adherence of anons to such esoteric vernacular, possibly pointing at a search for an origin myth in relation to the white race.

Predictably, crusade-related terms on 4chan are used in connection with more recent events shaping the ongoing conflict between The West and the Middle East, and in general between Christianity and Islam: thus “Jihad” and “Caliphate” appears on the list of the most frequently associated words, alongside with “reconquista” (the two terms mutually recall each other). As we have stated above, anons narrative on crusades is used as both an interpretive framework for understanding the current situation and as unifying-seeking discourse on the need for a new crusade/reconquista.

Last but not least, threads related to modernity are not only associated with advance but also - and more interestingly - with decadence and degeneracy. Contextually, the connection between modernity and decline of humanity lead once again to an esoteric interpretation of world history as being cyclical with alternating phases of rises and falls.

Delving deeper into our investigation, Wikipedia’s references in 4chan’s threads proved to be a compelling perspective to further explore anons’ historical engagement. Therefore, we checked for Wikipedia’s links in the discussions related to the most frequently mentioned historical periods (Atlantis, the Crusades and WWII). The resulting graphs (see below) show some interesting discoveries. In the WWII time span, for instance, the most linked topic regarded the German Instrument of Surrender, the legal document that established the defeat and capitulation of Germany. As for the period concerning Atlantis, instead, the most shared link is to the hyperborean race: a finding, which reinforces our speculation about its connection to the rise of the white race and the search for an origin myth. Not being the main focus of the







Figure 7: The frequency of Wikipedia-articles shared on 4chan /pol/ in the comments mentioning “Atlantean”.

## The Rise of the Kali Yuga

Alongside the alternative interpretations/ amplification of specific historical periods, our research further delved into the engagement with meta-historical esoteric interpretations of history. While esoteric concepts such as “hyperborean” and “atlantis” have been part of a long discussion on 4chan /pol/, i.e. at least since the advent of our dataset, we were able to confirm our hypothesis of the advent of another esoteric discussion: Cycle of Yugas (Figure 2). Simply put, the “The Cycle of Yugas” is an expression that originates from Hinduism and conceptualizes history as being cyclical and divided up into 4 stages: Kali Yuga, Dvapara Yuga, Treta Yuga, and Satya Yuga. Within this conception of history, the Satya Yuga is the “Golden Age” marked by “Truth”. This period, however, slowly declines and disintegrates, ending in what is referred to as the Kali Yuga, i.e. the age of moral corruption and confrontation.

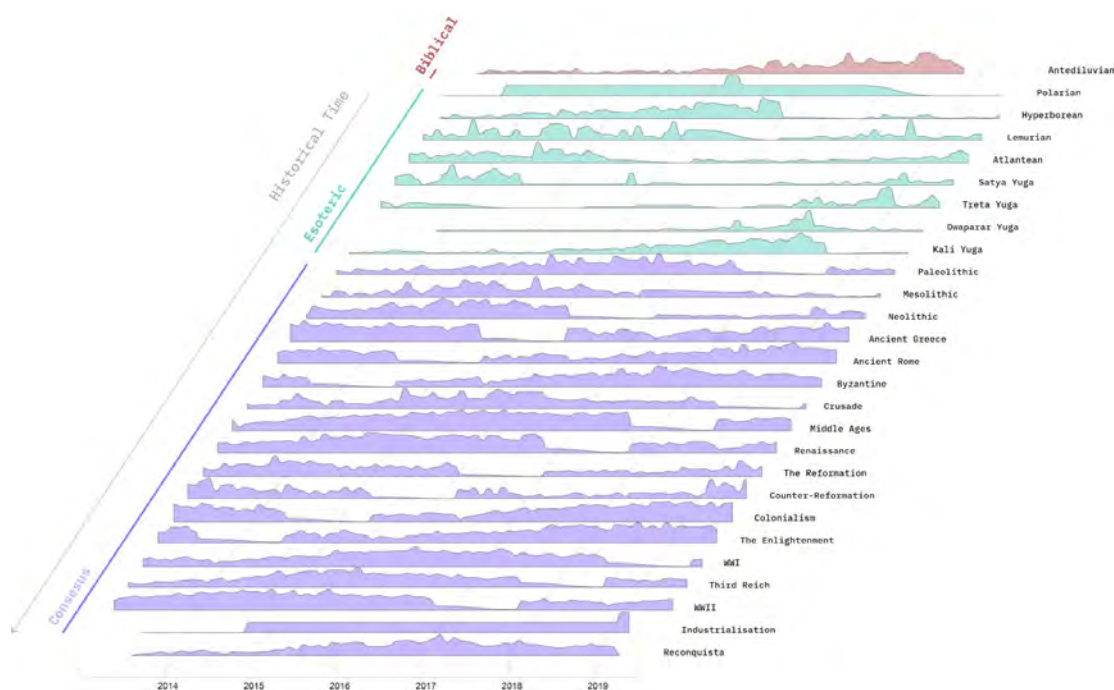


Figure 8: The overall mentions of the 27 historical periods of our expert list per month between 2013 and 2019 on 4chan /pol/. The frequency of mentions of each specific historical period is not statistically normalized, therefore it is not a comparative visualization - only showing the progress or decline in relation to itself. The y-axis represents the historical periods and their clustering of “consensus”, “esoteric”, and “biblical”;



One of the ways in which anons argue for this theory is by linking to the Wikipedia page, while copy-pasting the apocalyptic signs of the Kali Yuga on /pol/:

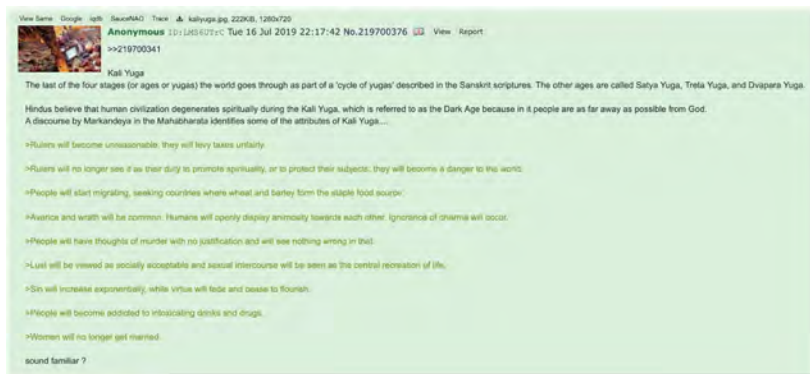
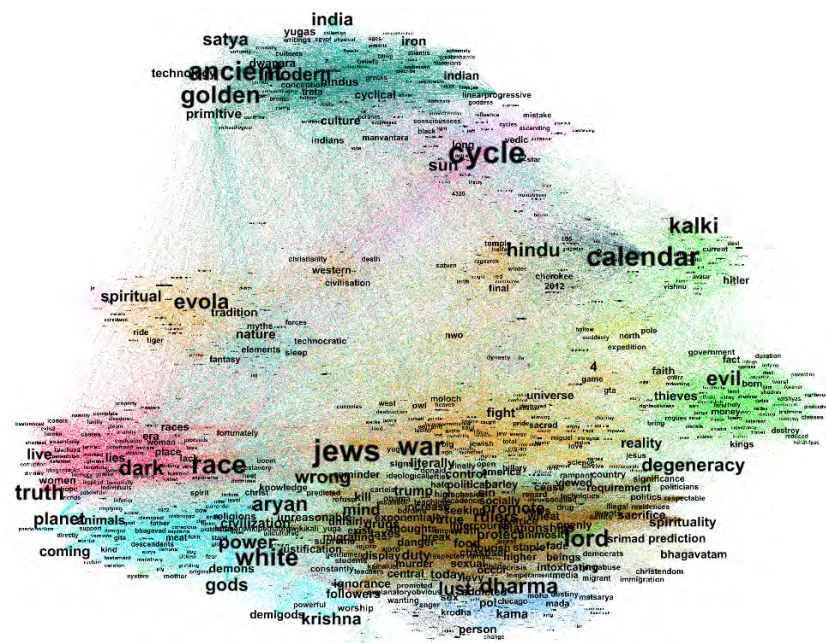


Figure 9: Screenshot of a comment referencing the Kali Yuga along with the text from the Kali Yuga Wikipedia page listing the apocalyptic signs of the Kali Yuga.\_\_\_\_

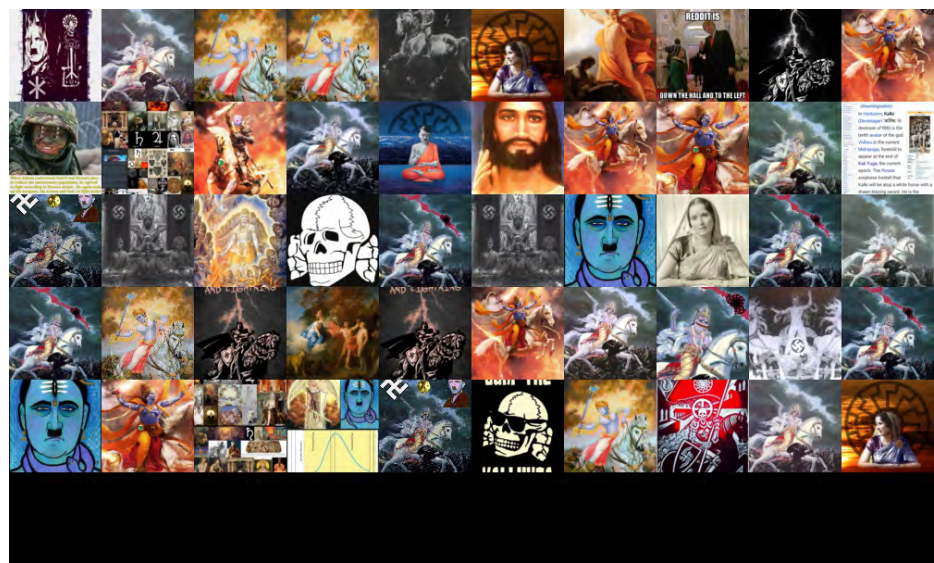
Furthermore, by performing word collocations in the body of comments mentioning the Kali Yuga, we were able to establish a map of associations and clusterings of vernacular similarities (Figure 3). One of the first noteworthy clusters on the map is that linked to the theorist “Evola” and the topics discussed by him. The larger brown cluster in the bottom signifies a group of words (activities) associated with the degeneracy that occurs during the Kali Yuga. Right next to that, on the left, is a cluster of ethno-nationalist association, highlighting that the Kali Yuga is not a decline or struggle for all humanity, but a particular failure of The West to preserve its own roots and identitarian history. A final relevant cluster is that of the “Kalki” (right-centre). The Kalki, in the often-cited Kali Yuga Wikipedia article, is defined as “the tenth and final [Avatar](#) of Lord [Vishnu](#) [...] Kali is a negative manifestation working towards the cause of the end or rather towards eventual rejuvenation of the universe” (from the entry “Kali Yuga”, Wikipedia).



\_Figure 10: Word collocations with the term “Kali Yuga” in all the comments mentioning “Kali Yuga” on 4chan /pol/ from 2013 till 2019 visualized with Gephi. The colours are based on modularity. The term Kali Yuga is excluded.

It is the particular usage of the term Kalki that ties the esoteric mystical meta-history to another significant period on 4chan: WWII. As one way to represent the cultural imaginary of the 4chan Kalki we extracted all the images of the comments mentioning the term “Kali Yuga” and constructed an image wall (Figure 4). The two most notable things to be drawn from this image wall is that - besides images of the ancient hindu representation of the avatar - Hitler is mostly described as the human Kalki. While Trump was also frequently mentioned in the comments as the savior, the period of the Third Reich is mostly associated with an actual attempt to “end” the Kali Yuga and re-establish the ethnostate. The association with the Third Reich is more firmly entrenched with the use of the “Black Sun” symbol, i.e. the image of “a large sun wheel composed of twelve zigzag sig-runes,” known for being prominently placed on the marble floor of Heinrich Himmler’s Wewelsburg, and sustained through neo-nazi occultism (Goodrick-Clarke, 2001:125). Finally, one frequently encounters the image of “Kalki Pepe”, an adaptation of the fictitious cartoon character Pepe, whom as a meme became the “ironic” symbol of white supremacy and racism on 4chan - “ironically” sliding into mainstream culture. Kalki Pepe (re)emphasizes the ironic nature of 4chan in which popular culture, esoteric thought, and fascism are blended into a narrative.

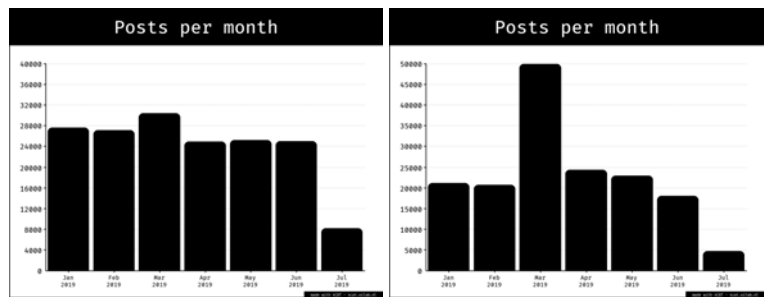




\_Figure 11: Image wall of the 50 most frequently appearing images in comments mentioning “Kalki”, i.e. the savior that will bring an end to the Kali Yuga on 4chan /pol/ from 2013 till 2019.

“The Clash of Civilisations”

Figure 12 highlights the slurs against Jews (on the left) and Muslims (on the right) on 4chan /pol/ from the beginning of 2019. As can be seen quite clearly, March 2019 marks a forceful spike in comments mentioning slurs in reference to Muslims. The month in which the Christchurch Massacre took place. The shooter, before the attack, had written specific dates and names of historical figures and periods on his gun. Furthermore, the shooter had a strong connections with platforms such as 8Chan and 4chan. Therefore, our research, in the second week, looked into the particular historical references on the different firearms in order to measure the relation between the historical periods written on the guns and the engagement with those periods on 4chan.



\_Figure 12: Tables of with frequency of slurs for Jews (left) and Muslims (right) per month on 4chan /pol/.

Figure 13 highlights the engagement of 4chan /pol/ with the historical events on the guns of the Christchurch shooter. Again, here we (re)discover the amplification and engagement with historical periods highlighting the battle between the West and the Middle East, Christianity vs. Islam, i.e. “Reconquista” and “First Crusade”. Furthermore, the modern historical event “Rotherham” receives a lot of attention. The significance of this event, to a certain extend, can be attributed to the fact that it contains many details that thrive on 4chan. Rotherham is a city in England that became infamous in 2010 for its child sexual exploitation scandal and the fact that most of the perpetrators were identified as Pakistani-British (Jay, 2014:92). It is an event that, on 4chan, highlights the threat of immigration and the “evil” nature of other races who threaten Western European culture. The three other events with smaller engagement are the “Battle of Vienna”, “Charles Martel” and the “Napoleonic War”, drive home the point that there is a particular interest in the battle with the Ottoman Empire and the military leaders who lead their armies against them.



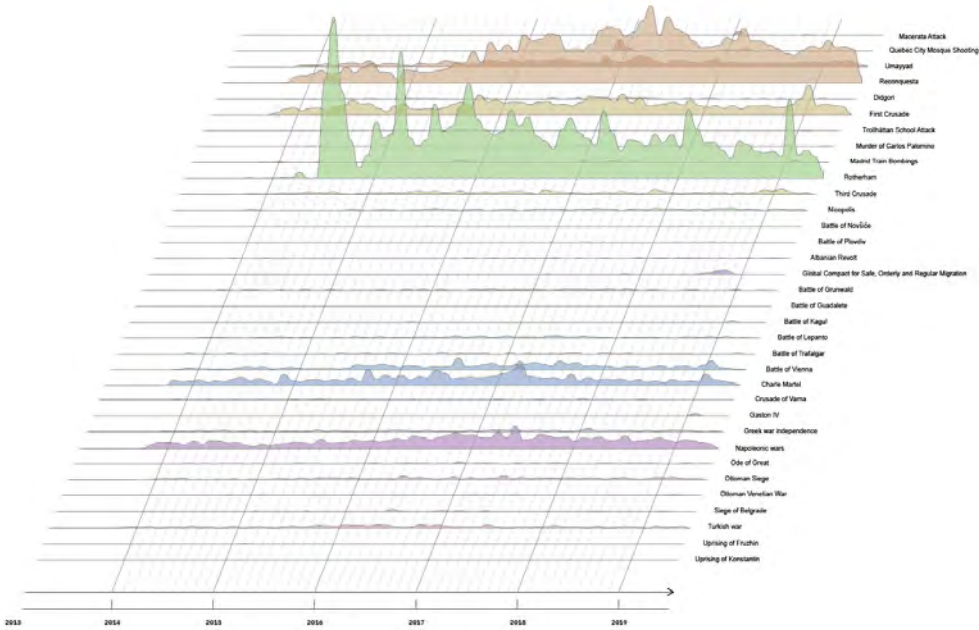


Figure 13: Frequency of mentions of the specific historical terms written on the gun of the christchurch shooter on 4chan /pol/ from 2013 till 2019.

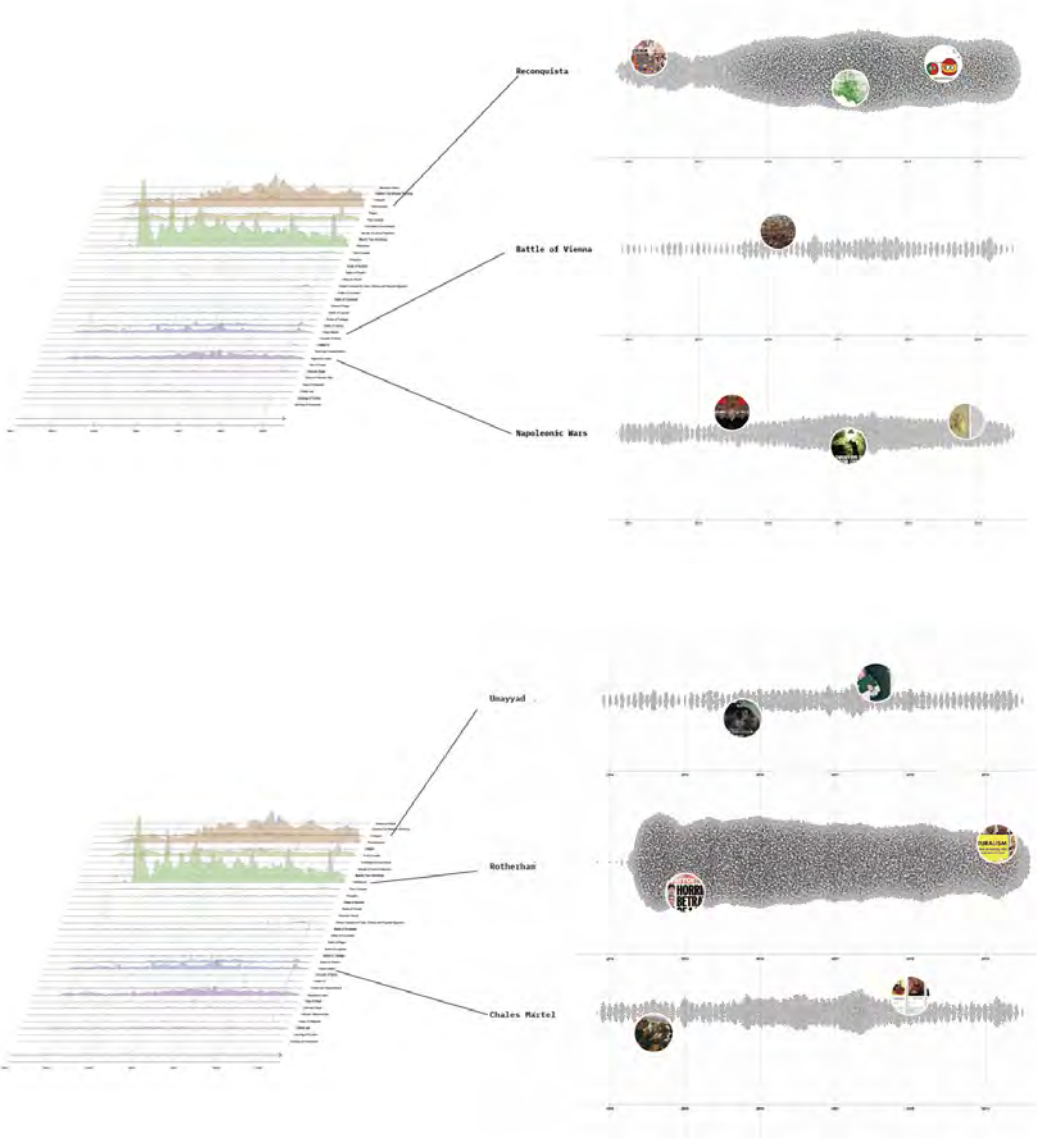


Figure 14 & 15: Zooming in on the 6 most engaged with historical periods of the christchurch shooter's gun with subsequently the most shared images from 2013 till 2019 on 4chan /pol/.

Finally, as the focus of the shooter in relation to 4chan can be found in the battle against the Ottomans, we mapped the connections and clustering of the term "Ottoman" to words appearing in the body of posts mentioning "Ottoman" (Figure 16). While these outcomes are by no means surprising, they do drive home the point of the "enemy" imaginary, i.e. Jews, Muslims, and people of colour. It is through the lens of a battle against these groups that history is viewed.







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(2004), Griffin (1991), and Goodrick-Clarke (2001). What is new, then, is the form: the way in which these senses of history are expressed. As we see in the image wall - with "Kalki the Destroyer" alternately represented as Hitler or pepe, for example - the mystic-historical imaginary of the Kali Yuga has been folded into the vernacular aesthetics of /pol/, and we can see a similar process at work in the "Deus Vult" meme's in the "clash of civilisations" imaginary (Hagen, 2018).

Also of interest in this research is that finding that /pol/ contains at least two "secret histories" within it. Contrary to the image of /pol/ and 4chan more broadly as a homogenous "blob", the existence of these alongside each other suggests that the board may well be more internally diverse than it has been imagined to this point (see Jokubauskaite, 2019). While we cannot say that it is not the same anons engaging with both histories, that many historical imaginaries exist at all certainly suggests that /pol/ is more than an undifferentiated blob.

## Limitations

This project focussed on the dissemination of alternative histories on 4chan. Due to the two-week time frame of the summer school the amount of "alt-histories" engaged with was limited. While the expert list gave us valuable information on what periods to query, there might be more bottom up ways to find periods of interest. Such a grounded method of finding relevant entry dates, however, requires much methodological refinement, e.g. in a large data-set it is difficult to distinguish between the usage of numbers as dates, frequencies or quantities. Furthermore, given the level of influence of esoteric thinkers such as Evola, another productive way to engage with alternative history would be to delve deeper into the history of esoteric thought and argue the historical concepts/interpretations that "catch on".

While the study of esoteric thought on platforms such as 4chan is highly interesting from a web-epistemology perspective, the political/societal relevance of such a study should be understood in terms of this epistemology spreading into the mainstream. While our study departed from the "dog-whistle" concept, e.g. as Thierry Baudet "ironically" engaged with boreal, more research is needed in terms of understanding the relation between the mainstream and the fringe and how both affect each other. Such an expansion of the study would pay more emphasis on the chronology of the dissemination.

Finally, our study focussed on the textual historical vernacular on 4chan and the dissemination of Wikipedia articles. While we did highlight particular memes surrounding concepts such as the Kalki, it might prove useful to further engage in visual analysis of those memes in order to get a complementary understanding of the historical imaginary and "ironic" dissemination of specific ideas.

## 7. Conclusions

Our research departed from the hypothesis that 4chan /pol/ is giving a vernacular format to a long tradition of post-war far-right political thought, e.g. esoteric fascism. Sparking from the theoretical foundations set-out in the works of Mark Sedgwick and Roger Griffin, our analysis sought to locate the re-emergence of this kind of "intellectual history" on the web and in particular on platforms like 4chan.

Beyond the mere discussion of esoteric concepts on /pol/, the dissemination of these concepts through particular affordances of 4chan has been highlighted. As we have seen in the case of the Kalki, anons make use of specific memes in order to create and spread an imaginary of concepts. Moreover, our study shows history as a concept of multiples, i.e. users engage both with consensus history as well as esoteric hitstory.

Having started with our exploration of esoteric fascism and alternative history on 4chan, a fruitful next step would be to trace how these particular narratives are being shaped and travel throughout the web, e.g. studying the dialectical tension between the mainstream expressions and their relation to fringe online cultures.

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# EXHIBIT 12



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## The Alt-Right Apocalypse

📅 August 17, 2017 (https://themarginaliareview.com/alt-right-apocalypse/) 👤 ()

### Blake Smith in Hindu Eschatology and the Reactionary Mind

The election of Trump heralds a “Dark Age” of ignorance and violence, warn standard-bearers of centrist liberal opinion like *The New Republic* and *The Atlantic*. The far right is inclined to agree. A range of groups whose members increasingly think of each other as part of a common ‘alt-right’, from neo-Nazis to more subtle advocates of white identity, like Richard Spencer, see our current era as a time of degeneracy and decay, fated to destruction. Some voices on the alt-right, such as the hosts of the *therightstuff.biz*, notorious for its podcast *The Daily Shoah*, initially saw Trump as a leader who would halt America’s demographic transition toward a non-white majority. But even before what have been seen as the disappointments of his first months in office (strikes on Syria, little progress towards a wall on the Mexican border, the presence of Jews in his cabinet), others insisted that a Trump presidency would do nothing to change the fact that, as the pseudonymous Lawrence Murray phrased it for *therightstuff.biz*: “we do in fact live in a dark age. *The Dark Age* even. Capital letters, fam. *Kali Yuga* (http://therightstuff.biz/2017/01/16/the-dark-age/).”

The Puranas, canonical texts of South Asian religious traditions, describe the Kali Yuga as the final stage of a four-fold cycle by which the universe is continually created, destroyed, and born anew. The era of wickedness, the age of the unlucky throw of the dice, the Kali Yuga is a time of moral perversion in which knowledge of true religion is almost forgotten. But when iniquity reaches its height, the savior-destroyer Kalki, final avatar of the god Vishnu, will return riding a white horse, flaming sword in hand, to return the universe to its original purity. The image recalls the Book of Revelation’s image of Christ, likewise on a white horse, bearing a sword and dealing wrath. But the similarities are only image-deep. The Christian Apocalypse is a singular crisis, while the Kali Yuga is one stage in an endlessly repeated cycle: there will be, and have been, an infinite number of dark ages. And we are living in one now. According to most traditional Hindu religious scholars, the current Kali Yuga has been going on for centuries, indeed millennia. The end of the world is not a future to be awaited in hope or fear; it is our own moment.

The alt-right is making the Kali Yuga its own. Prominent alt-right websites feature essays citing South Asian religious texts and warning that Aryan prophets foretold the moral dysfunction and coming destruction of the modern world. On Twitter, Tumblr and other social media outlets, semi-ironic memes



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calling on readers to “Surf the Kali Yuga” circulate, sometimes embedded with Nazi imagery. Discussions of the Kali Yuga are part of the alt-right’s larger strategy of appropriating exotic, esoteric and often deliberately wacky vocabulary and iconography from other discourses. It has been effective. By regularly denouncing such alt-right symbols as Pepe the cartoon frog, groups like the Anti-Defamation League or the Southern Poverty Law Center risk coming across as peevish, paranoid, or simply confused to those who are either unaware of these images or familiar with them from other, non-political contexts.

But the Kali Yuga is more than a new addition to the alt-right’s arsenal of “meme magic.” Since the early twentieth-century, far-right thinkers have been adopting South Asian eschatologies for their own political ends. Figures who sympathized with fascism and regretted its defeat in the Second World War, like the Italian philosopher Julius Evola (1898-1974) and the Franco-Greek convert to Hinduism Savitri Devi (1905-1982), promoted the idea that the contemporary West is undergoing a final collapse that will end with a purifying ordeal and the emergence of a heroic new order. Contemptuous of Christianity, which, like Friedrich Nietzsche they saw as a Semitic religion that promoted weakness, Evola and Devi were fascinated by the polytheistic traditions of South Asia. They drew on Hindu sacred texts to construct a vision of the world in which the current Kali Yuga, the dark age of hedonism and materialism, was soon to be destroyed by Kalki.

The Kali Yuga came to the awareness of Europe and North America, however, not through the apocalyptic fantasies of the far right, but through the eclectic occultism of the Russian mystic Helena Blavatsky. An entrepreneur of the occult, Blavatsky fused Western esoteric traditions derived from Plato with South Asian spirituality. The founder of the Theosophical Society in 1875, she became one of the first widely-read Western writers to discuss the Kali Yuga, foretelling a new age of enlightenment and peace. Blavatsky’s influence was as eclectic as the sources of her philosophy. Her cosmopolitan outlook inspired radicals like Annie Besant, who, after becoming president of the Theosophical Society in 1907, devoted its resources to Indian independence. But by entwining South Asian and European traditions, Blavatsky also seemed to support the emerging idea that behind the historical parallels between societies across Eurasia was a far-ranging “Aryan race.” Occultist groups searching to recover a lost Aryan spirituality in Europe and South Asia sprung up across early twentieth-century Europe; their presence among the leadership of the Nazi Party is notorious, if often exaggerated (<https://www.spectator.co.uk/2017/06/did-hitlers-obsession-with-the-occult-lose-him-the-war/>). Today’s alt-right flirts with ideas derived from the Third Reich’s *Ahnenerbe*, the Nazi organization that searched the world for traces of Aryan greatness. But in its discussions of the Kali Yuga, the alt-right is indebted less to the Third Reich than to Evola and Devi, a pair of thinkers who watched Hitler’s empire collapse, and who turned for comfort to Hindu visions of the end of the world.

Julius Evola introduced the Kali Yuga to far right politics. Author of works on Yoga and a correspondent with the great scholar of religion Mircea Eliade, Evola was also a qualified supporter of Italian Fascism; he found Mussolini, and indeed Hitler, to be insufficiently reactionary. In Evola’s eyes, the leading tendencies of Western modernity corroded the moral and spiritual traditions that make life in society possible. Liberal democracy, the market economy, and socialist parties all appeal to individuals’ vulgar desires for material comfort and equality. He preached a return to hierarchy, in which people would subordinate themselves to a spiritually awakened aristocracy. The Italian Fascists and German Nazis alike, he despaired, focused their rhetoric on populist appeals to the everyman, and much of their policy on providing work, housing, and leisure for middle-class families. They were, no less than the democracies, essentially bourgeois regimes. Well before the defeat of the Axis powers in 1945, Evola became convinced that far-right movements could succeed only through spiritual rather than political methods, and he began to see Hindu traditions as a resource in the struggle for Europe’s soul.



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Evola outlined this vision in *Revolt Against the Modern World: Politics, Religion and Social Order in the Kali Yuga*, first published in 1934, and revised, with a still more pessimistic perspective, in 1969. Citing Sanskrit texts such as the *Manusmriti* (*Laws of Manu*, written between 200 BCE and 200 CE), Evola argued that pre-modern Europe, before the decadence of liberalism had sent in, was an example of an Aryan caste society governed by worthy aristocrats. In the modern era, the lower castes of merchants and workers had risen up to overthrow this sacred order with demands for political rights and material welfare. Evola predicted that America and the Soviet Union, each representing in different ways the liberation of the lower castes, would destroy Europe and each other in a nuclear holocaust that would end the current “cycle” of history. He suggested that a spiritual elite might survive this global conflagration, and that, indeed, it might be in their interest to accelerate it. *Revolt Against the Modern World* ends with a lengthy quotation from the *Vishnu Purana* which describes, as Evola glosses the text, how a handful of righteous men will remake the world after Kalki brings a “new and final epiphany.”

The importance of Evola’s ideas to the emergence of the alt-right is difficult to overstate. Mainstream media outlets have begun to pick up on his influence, not least on Steve Bannon, an advisor to Trump linked to alt-right media. But journalists have often been more invested in pointing to the radicalness of Evola’s ideas, or to the imagined contradictions of alt-right support for a philosopher who despised Christianity, than they have been with making sense of Evola’s appeal. Evola was a widely-read thinker with a broad outlook on history and religion, and he frankly discussed the shortcomings of fascist regimes. Rejecting the Third Reich’s supposedly scientific racism, Evola gave little importance to genetics or pseudo-Darwinian ideas about race. He argued that a feeling of racial or national belonging was something to be created and maintained through myths rather than an expression of objective relationships among people. Skeptical of economic or political solutions to Europe’s decline, he considered that the primary struggle was in the realm of culture and identity. He saw historical traditions as a resource from which images and stories could be drawn to provide a new sense of purpose for a messianic vanguard. His ideas are at home in a post-modern alt-right that avoids straightforward identification with Third Reich and seeks to shape dominant narratives rather than openly pursue political power.

Evola’s hope for the appearance of Kalki in the form of nuclear war seems almost genteel alongside the prophecies of Savitri Devi, who abandoned her career as a scholar of mathematics in France to take up residence in India as a student of Hinduism. A sympathizer both of Indian independence and of the Nazi regime, Devi took the defeat of the Third Reich in 1945 as a shock. She began to preach that Hitler had been an avatar of Vishnu, and that he would return in the form of Kalki to finish his divine mission of cleansing the earth of Jews. In books such as *The Lightning and the Sun* (1958) Devi insisted that, quite literally, Hitler was a god and Jews the embodiment of evil. Her ideas were long relegated to the furthest fringes of the far right, with Devi living out her final years in a dingy, cat-filled apartment on the outskirts of Delhi. But shortly before her death in 1982, there were signs of a revival. The crypto-fascist esoteric novelist Miguel Serrano derived a theory of ‘Esoteric Hitlerism’ from Devi’s prophecies (which he interpreted metaphorically). American white supremacists like William Pierce, author of *The Turner Diaries* (1978), a novel depicting an apocalyptic race war in which white Americans massacre everyone else, admired her vision. Today, her prophecies that Hitler will end the Kali Yuga can be found on alt-right websites from Counter-Currents (<https://www.counter-currents.com/tag/savitri-devi/>) to the Daily Stormer (<https://www.dailystormer.com/radio-stormer-narrations-savitri-devi-and-the-hitler-avatar/>).

Neither Serrano and Pierce, nor most members of the contemporary alt-right, believe what Devi preached. Nor are they all committed to some form of apocalypse in which America’s evolution as a multi-cultural, multi-ethnic country is abruptly reversed by a “Day of the Rope,” as *The Turner Diaries* phrased it. The Kali



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Yuga functions in alt-right discourse as a catch-all for what alt-righters see as the degeneracy of the twenty-first century: promiscuity, miscegenation, and, above all, the erosion of white identity and white power in a changing America. It both justifies a pessimistic attitude toward current events (do not hope for too much from Trump, we are, after all, still in the Kali Yuga) while also holding out the possibility of a sudden transformation. It has distinct advantages over other kinds of apocalypses. By using a concept from South Asian traditions, alt-righters, often divided among various kinds of right-wing Christians and neo-pagans or atheists, can give a spiritual aura to their movement while avoiding the controversies that would ensue from committing to a Christian eschatological framework.

Appeals to the Kali Yuga, however strategic or ironic, do more than play with an exotic signifier. They anchor the alt-right in a historical movement that extends beyond the Third Reich, whose collapse remains a troubling explanandum for neo-Nazi movements. They link the alt-right to mystics and philosophers, rather than a particular regime or policy, and connect it, beyond Evola and Devi, to the ancient religions of South Asia. Citing the *Manusmriti* or the *Puranas* suggests that by attacking “degeneracy,” the alt-right speaks for a millennia-old moral consensus shared by many societies and only recently perverted in our own. This logic also underwrites recent, tongue-in-cheek proposals on the alt-right to adopt “white sharia,” a return to patriarchal order inspired by Islamic law. The alt-right can thus appear, as figures like Richard Spencer insist it to be, not an exceptional eruption of white racial animus, but as a normal expression of an impulse for collective self-preservation against the destabilizing forces of modernity. Sincere or not, the Hindu-inflected apocalypticism of the alt-right should be taken seriously. So should the movement’s religious dimensions: behind the sardonic facade of “meme magic” is a spiritual longing and, for some, a violent messianism.

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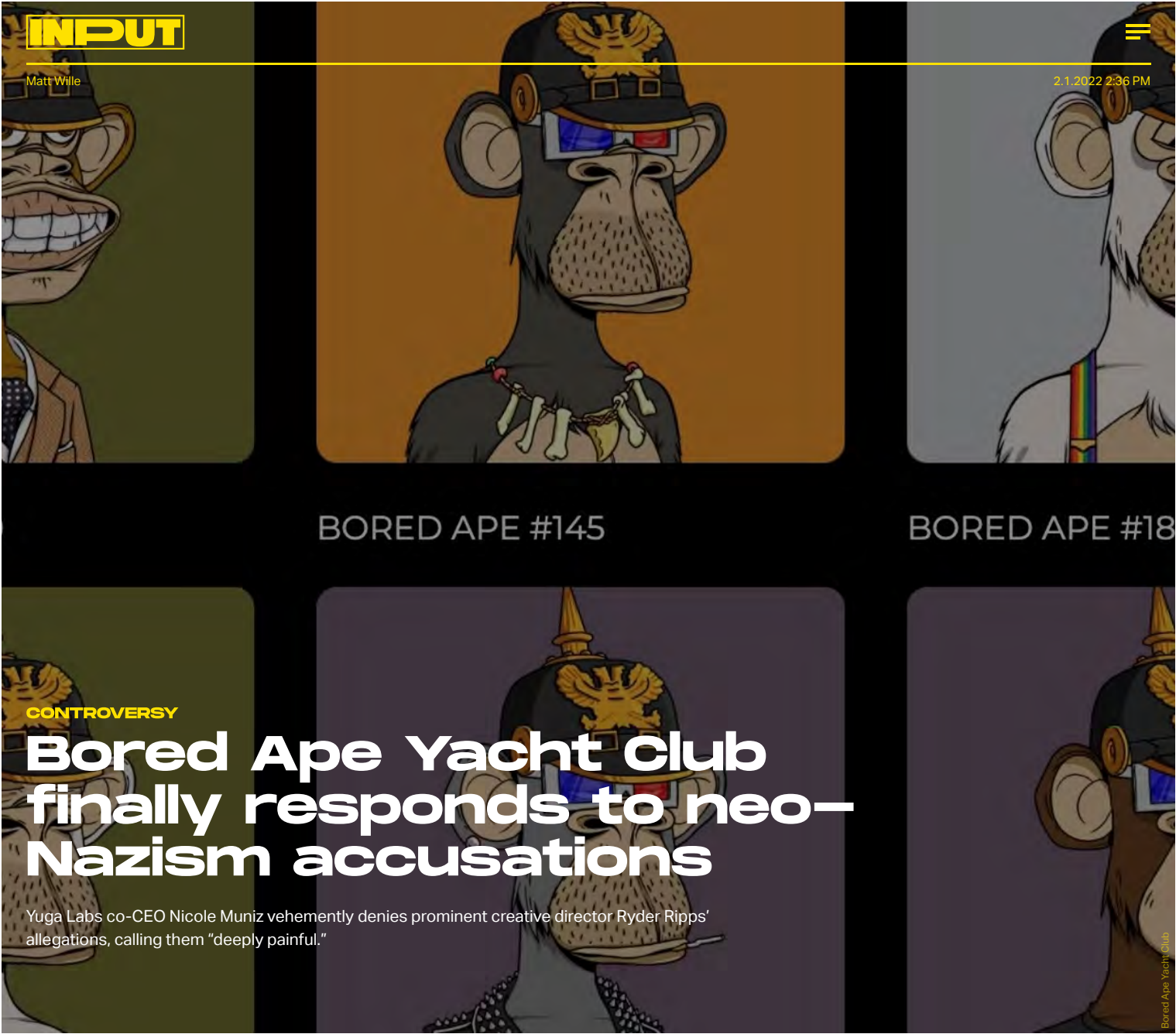
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# EXHIBIT 20





# Some days, it feels like the entire internet has gone ape.

The ultra-trendy Bored Ape Yacht Club NFT collection is everywhere you look, from Twitter to late-night television. Justin Bieber just bought a Bored Ape for \$1.3 million. Adidas has a full-on partnership with the BAYC collective. Overall sales of the non-fungible simians officially passed \$1 billion early this year.

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Not everyone is buying into the hype, though. In particular, creative director Ryder Ripps — best known for collaborating with artists like

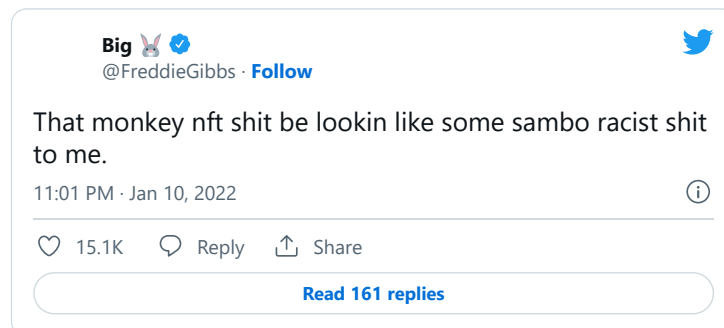


**INPUT**

Kanye West and brands like Gucci and Soylent — has been amassing an archive of evidence about what he sees as the Bored Ape Yacht Club's many neo-Nazi and racist references.

Since late last year, Ripps, who was raised in a Jewish family, has been sharing his findings via social media. On Twitter, Ripps has faced severe backlash about the nature of his research, though plenty of others have stood behind his findings or even added to them. He's compiled his research at [gordongoner.com](https://gordongoner.com) — a site named after the pseudonym of one of BAYC's co-founders.

"They're trolls," Ryder says of the Bored Apes team in an interview with *Input*.



Gordon Goner, along with the similarly pseudonymous Gargamel, Emperor Tomato Ketchup, and No Sass are the official founders of BAYC. An artist who goes by Seneca created the initial sketches; five other artists turned her ideas into the 10,000 apes NFTs in existence.

Yuga Labs, the company that owns Bored Ape Yacht Club, outright denies connections to any extremist imagery. Moreover, co-CEO Nicole Muniz says that very idea runs opposite to the sense of community the BAYC wants to foster. She characterizes Ripps' barrage of BAYC-targeting tweets as very aggressive. "It is deeply painful," she says. "It's disturbing." Meanwhile, experts from the Jewish organization the Anti-Defamation League consulted by *Input* have also cast doubt on the evidence presented by Ripps.

Ripps' claims of the Bored Apes' connections to Nazism begin with the collective's logo. The monkey's skull, bordered on all sides by text, is "very similar" to the *Totenkopf* symbol utilized by Nazis, he writes on his webpage. He points out that both images depict skulls with 18 teeth.



→ Ryder Ripps





However, Mark Pitcavage — a senior research fellow at the ADL's Center on Extremism who has on many occasions been called as an expert in court cases — tells *Input* that he sees no connection between BAYC's logo and the Nazi *Totenkopf* image.

"The Nazi *Totenkopf* is one very specific graphic design of a skull and crossbones," Pitcavage says. "And the monkey skull resembles it in no way except insofar as all skulls resemble each other to a certain degree."

Pitcavage also points out that the Nazis were by no means the first to adopt the *Totenkopf* — and, in fact, the version used by the Waffen-SS (the combat branch of the Nazi party's SS organization) predates the Nazi party entirely. "It dates back to the Prussian military, way before Adolf Hitler was even born," he says.

The more you dig into Ripps' research, the more tenuous the links get. Some Bored Apes wear a helmet known as a *Pickelhaube*; Ripps points to this as further evidence of Nazi sympathies. But the helmet in question was actually worn by Imperial German soldiers.



“When I **FIRST** read his  
blog post, I actually had to  
look that [**REFERENCE**]  
up. And I’ve been studying  
white **SUPREMACY** for  
27 years.”



"Imperial Germany is two governments before the Nazis," Pitcavage says. "It is true that some white supremacists will fly an Imperial German flag, because the Nazi flag is prohibited in Germany." However, he says, other Imperial German images, like the *Pickelhaube*, are not at all associated with Nazis.

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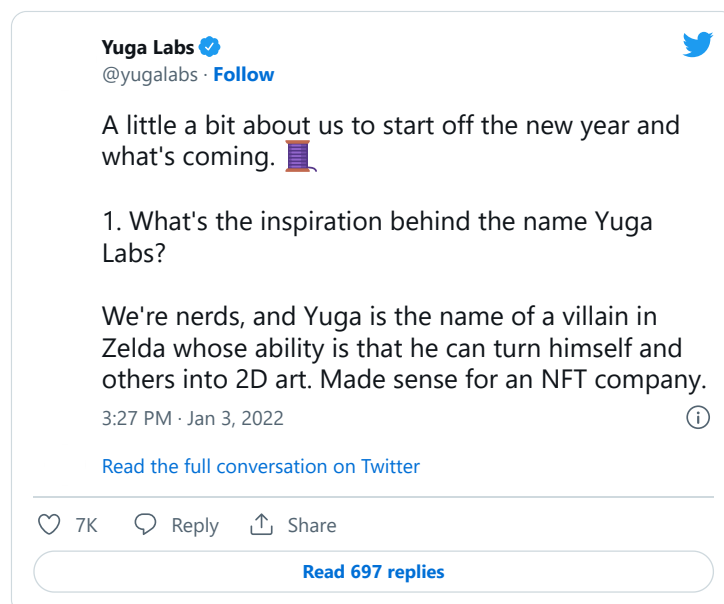


Some of Ripps' points — like the fact that Yuga Labs launched the Bored Apes on April 30, the day of Hitler's death — are nothing more than coincidence, according to Pitcavage. "The date Hitler died isn't even a date white supremacists celebrate," he says.

Ripps also points out on his site the similarity between Yuga Labs' name and that of Kali Yuga, a "popular element of alt right/traditionalist ideology." But calling Kali Yuga "popular" is very much a stretch, Pitcavage says. "When I first read his blog post, I actually had to look that up," he laughs. "And I've been studying white supremacy for 27 years." (The Hindu concept of Kali Yuga has been called upon by the alt-right, at times, though it is by no means common.)

## 'THINGS GET TWISTED'

Earlier this year, as Ripps continued to tweet his research, Yuga Labs — which hasn't taken on his allegations head-on until now — subtweeted him. The company's name, it tweeted, was taken from a villain in the popular Nintendo 3DS game *A Link Between Worlds* — a sorcerer who can turn characters into paintings.



Muniz echoes the sentiment of that tweet: "We're all just video game nerds." Muniz leads Yuga along with Gordon and Gargamel; she refers to them as a "three-headed dragon." When asked about Ripps' allegations, she begins by bringing up that Gordon is Jewish. Guy Oseary, a high-profile partner in the company, is Israeli, she adds. (That members of the team are Jewish, of course, doesn't necessarily mean Nazi imagery couldn't have made its way into the project.)

Muniz says that Yuga Labs considered getting lawyers involved or sending Ripps a cease-and-desist but decided the best route was to





keep its head down and keep moving forward.



“Some of it is clearly  
**OFFENSIVE.** It’s not  
exempt from  
**CRITICISM.”**

“Things get twisted in a way where it’s like interpretations of interpretations of interpretations of facts. Sometimes you want to be like, ‘Just google it!’” she says. “We just have this feeling of exhaustion, sadness. And for some of the team it’s extremely, extremely painful.”

On Twitter, users reacting to what Ripps has to say have fallen mostly into two camps. Some users — especially those who own apes and consider themselves part of the BAYC community — have denied his allegations outright. “I never for a moment thought there was anything racist about BAYC,” one owner tells *Input*. “It never crossed my mind, and when all this stuff was brought up, I didn’t see the connection.”

Others have taken Ripps’ research to the opposite extreme, digging for “evidence” to the point of near-conspiracy. While much of Ripps’ research centers on specific visuals with similarities to Nazi imagery, other Twitter users have extended this search to the far ends of confirmation bias. Like claiming the BAYC’s **Kennel Club** — a collection of canine NFTs offered for free to each member — is a reference to Hitler’s love for dogs.

Fedor Linnik · Jan 6, 2022

@FedorLinnik · [Follow](#)

Replying to @FedorLinnik @ryder\_ripps and 8 others

[@TomatoBAYC](#)

Emperor Tomato Ketchup is a name of a subversive Japanese film by Shuji Terayama which is a violent satire of Japanese extremism on the right and left -- as well as of the country's post-War complacency.

afterall.org

Afterall - The Imaginary Martial Theatre of the Emperor Tomato ...

Shuji Terayama's Emperor Tomato Ketchup (1970) was a violent satire of Japanese extremism on the right and left -- as well as of...

Fedor Linnik

...



INPUT



Neither Pitcavage nor Carla Hill, another senior researcher at the ADL’s Center for Extremism, are willing to let BAYC off scot-free, though. They agree with Ripps’s points that a “hip hop” trait (which gives apes a gold chain and gold teeth) and a “sushi chef headband” are both problematic. The former, Ripps says, is a stereotypical presentation of Black culture; the latter, he says, is a stereotypical depiction of a Japanese person.

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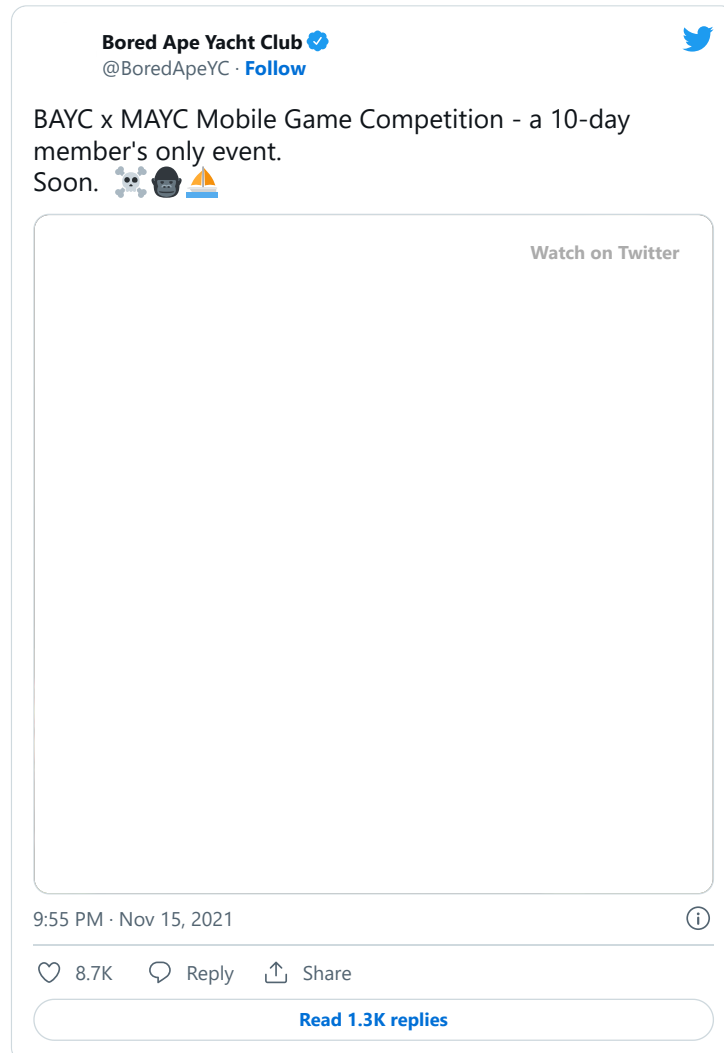


Bored Ape Yacht Club



INPUT

Ripps also points to less obvious examples of BAYC art that could be seen as problematic. In a teaser for the collective's first video game, for example, one of the enemies' weapons appears to be bananas arranged in a Swastika-like shape.



"Some of it is clearly offensive," Hill says. "It's not exempt from criticism." But Pitcavage notes that this is a very small subset of the 10,000 available apes. "Some look problematic out of context," he says. "They look less so in the context of all the others."

Muniz concurs. "When you look at one or two variables in a vacuum, you might see something that comes across as sketchy," she says. "But I think it's important to think about the fact that we deeply reference culture, all kinds of culture. Like the Hawaiian shirts, which [Ripps] says are racist because of the Boogaloo. Here's the thing: Go google the *Magnum P.I.* Hawaiian shirt."

Both Pitcavage and Hill agree that, overall, Ripps' research does not point to any specific group of extremists. "If you're an extremist, you have a set ideology," Hill says. "You don't dabble in all different kinds."

Meanwhile, tensions between Ripps and BAYC have escalated. Yesterday, Ripps noted that the official BAYC Twitter **had blocked him**. The designer pointed to this turn of events as evidence that he is "officially winning."

*Update, 2.3.22: An earlier version of this article attributed a quote to Ripps; it was actually said by BAYC co-founder Gargamel.*



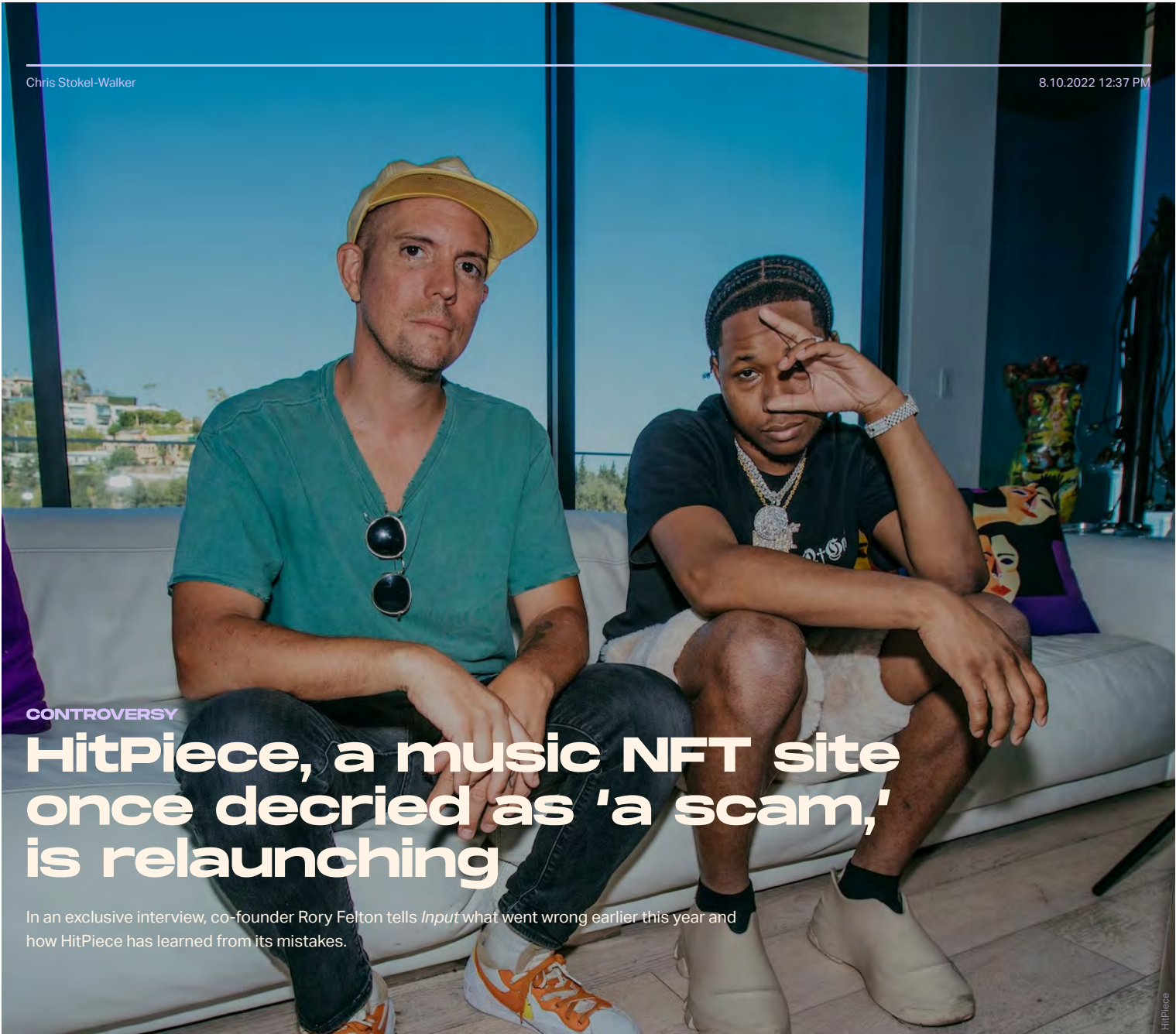


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Chris Stokel-Walker

8.10.2022 12:37 PM



CONTROVERSY

# HitPiece, a music NFT site once decried as 'a scam,' is relaunching

In an exclusive interview, co-founder Rory Felton tells *Input* what went wrong earlier this year and how HitPiece has learned from its mistakes.

Upon its launch on Dec. 1, 2021, the **NFT music marketplace HitPiece** promised users the opportunity to buy NFTs associated with the back catalogs of some of the world's most popular musicians.

There was just one problem: The musicians themselves, including BTS and Taylor Swift, had no idea. In early February, after learning that NFTs associated with his band Bleachers were listed for sale on HitPiece, Jack Antonoff tweeted:

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Wolfgang Van Halen, frontperson of the band Mammoth WVH, was more blunt:



Artists seemed particularly peeved that one of their own — Michael Berrin, AKA MC Serch from the '90s hip-hop act 3rd Bass — was among the people behind the company.

Chastened by the enormous negative reaction, HitPiece posted on social media, “Clearly we have struck a nerve and are very eager to create the ideal experience for music fans. To be clear, artists get paid when digital goods are sold on HitPiece. Like all beta products, we are continuing to listen to all user feedback and are committed to evolving the product to fit the needs of the artists, labels, and fans alike.”

By the next morning, the site’s contents had been taken down, replaced by a simple message: “We started the conversation and we’re listening.” Meanwhile, HitPiece was subject to a slew of, yes, hit





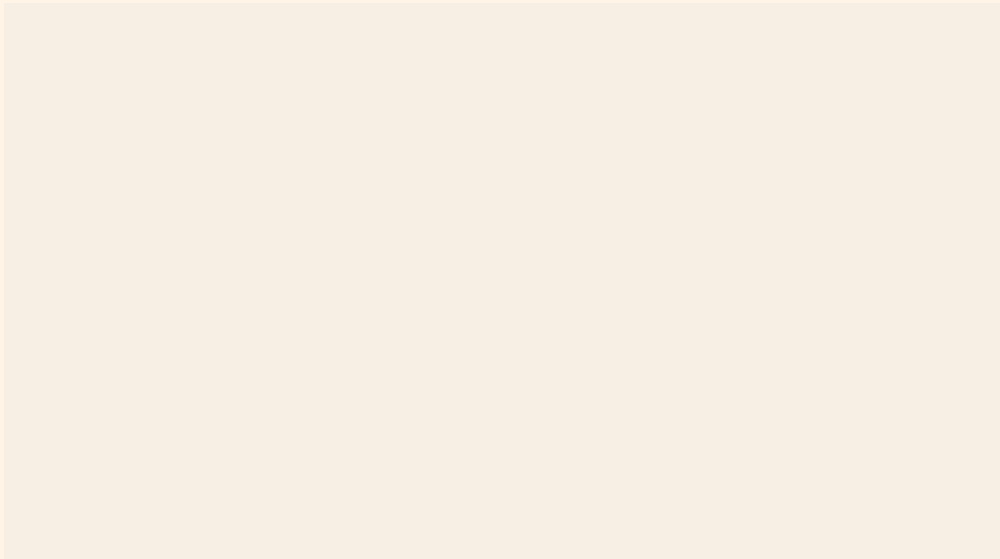
pieces calling the site **more despised among musicians than Spotify** and **"like, an incalculable number of 9/11s"** for artists.



Now, six months later, **HitPiece is back** — and the company would like you to forget about that whole thing in February.

For its relaunch, the 15-member HitPiece team has signed up about 50 artists, including hip-hoppers ATL Jacob, Lil Gnar, and Lil Gotit, who are minting NFT versions of their songs and other content, according to site co-founder Rory Felton, who previously co-founded the Militia Group record label (later acquired by Sony). Felton tells *Input* that the company will be announcing "tier-one, Grammy-nominated, diamond-level artists down the line, as well."

HitPiece, which Felton says received \$5 million in funding early on, takes a 10 percent transaction fee for any NFTs sold through the platform. There's also a metaverse component: "Early adopters will get access to their very own music lounge where you'll be able to share... your NFTs in an immersive listening room," the site explains.



↳ A HitPiece "music lounge" HitPiece

"Artists can go right now to HitPiece.com and register to be verified," Felton tells *Input* right out of the gate. (That's Felton pictured on the left in the lead image, alongside ATL Jacob.) "One of the value-adds we are bringing to this space is ensuring that only registered and verified artists are minting on behalf of those artists." HitPiece is doing so in partnership with content-recognition company **Audible Magic**, which will "help verify ownership of new music prior to minting of an NFT," according to a HitPiece **press release**.

That Felton leads with safe, secure verification as the pitch for HitPiece speaks volumes about what went before. When asked about the February controversy, he explains that the situation was a "beta experiment" that got out of hand.

Between the time HitPiece went online and the week artists found their work allegedly being monetized without their permission, Felton claims to have had hundreds of phone calls and meetings with artists,





labels, and rights holders. "The overwhelming feedback at the time was extremely positive and excited about it," he says.



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So what went wrong? "Clearly, we failed to have the proper guardrails in place around the product, which led to the miscommunications and challenges that happened," he says. "We made mistakes with that, and we're looking to learn from that and build upon that."

According to a [February article in Vice](#), the HitPiece block explorer showed that hundreds of NFTs had been minted since the site's launch. "Seemingly, anyone could register on HitPiece to sell a piece of music as an NFT, even on an artist's behalf," the outlet reported.

"Clearly, we failed to have the proper guardrails in place that ensure that only the rights holders of creative content could actually mint NFTs containing their assets," Felton says. "But it should also be clear that none of the beta was on a decentralized blockchain. It all was on a private chain in a custodial experience."

Despite the fact that some of the NFTs featured on the site had been minted, Felton claims no music was in fact up for sale on HitPiece; the platform only displayed artwork associated with artists' releases, which likewise was not available for purchase. (HitPiece's content was scraped from Spotify's publicly available metadata, *The Los Angeles Times* reported.)



**"I DO NOT** agree at all with the RIAA claim that it's a **SCAM**. That's not what our **BUSINESS** was or is about."







"It was attempting to try and make it easy for an artist to have their own storefront, and to show them how quickly it could be done, so they could enter this space quickly," he says. Felton calls the initial version of HitPiece a demonstration: "a game, or a vision of the future, if you will." He adds, "It simply got away from us."

Sadie Dupuis, frontperson of the indie rock band Speedy Ortiz, who found her music listed on HitPiece early this year, didn't see it as a game. "For a company artists have not chosen to work with to extract financial benefit off our work sans permission is pretty clear-cut copyright theft," she tells *Input*.

Whatever the truth of what happened earlier this year, it's fair to say the beta launch of HitPiece did not go well. Besides the musicians who lambasted the company after finding their artwork on its website, the Recording Industry Association of America (RIAA) condemned the site in a [press release](#) and a letter to HitPiece's attorney.

In that press release, Ken Doroshow, the RIAA's chief legal officer, said, "HitPiece appears to be little more than a scam operation designed to trade on fans' love of music and desire to connect more closely with artists, using buzzwords and jargon to gloss over their complete failure to obtain necessary rights."

That's a representation that Felton takes umbrage with. "I do not agree at all with the RIAA claim that it's a scam," he says. "That's not what our business was or is about." Felton didn't directly answer a question from *Input* as to whether the situation with the RIAA was resolved, instead saying that the association has since put HitPiece in touch directly with member labels the RIAA represents.

"We are not actively speaking with RIAA, because we're speaking with their member parties," Felton says. The RIAA declined *Input's* request for comment.

## A NOTABLE DEPARTURE

One party Felton and HitPiece aren't actively speaking to: Berrin, AKA MC Serch, who parted the company in the wake of the controversy.

"He's an old friend of mine, a longtime associate," says Felton. "He has just decided to pursue other opportunities at this point, and we wish him all the success in those new endeavors." When asked whether Berrin's departure was tied to the controversy, Felton reiterates, "He decided to pursue other opportunities, and we wish him all the success in all that he does."

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Berrin, likewise, is not forthcoming. “My reason for leaving HitPiece is no comment,” Berrin says in an email to *Input*, “but I wish them all the best in their future endeavors.”

Despite the drama, Felton remains eager to relaunch HitPiece — and believes that musicians are too. “We’re really just focused on helping artists achieve what they want to achieve,” he says. “We think we’ve got this. We know we have the simplest platform out there for music artists to use to mint NFTs and the audience to buy, and we hope to continue to innovate in the space and onboard more people into Web3.”

Felton admits that the negative headlines and subsequent retooling of the platform have cost the company precious time. By now, of course, the NFT market has crashed. But he’s still confident about the future. “Anyone entering the NFT space has to have a long-term vision for it,” he says. “Just like crypto, there seems to be large swings, both up and down.”



“I’m **SURE** there may be some artists that [the controversy is] a **HURDLE** for them. And we’re happy to **SPEAK** to them if they have any **QUESTIONS** about what happened and where **WE’RE GOING.**”



Felton claims that HitPiece’s past missteps haven’t been an issue for the 50 or so artists they’ve partnered with for their relaunch. He brushes off the idea that HitPiece has to work harder based on what’s





gone before. "I've been an entrepreneur my whole career," he says. "In a certain sense, it just feels like anything else I've done."

He positions the issues HitPiece had back in February as normal for boundary-breakers. "I think anyone in the startup world, you're pushing a new reality on the universe, right? It's never an easy feat. But we think we're providing real value for artists and for fans."

When *Input* points out the reality to Felton that any artist that hears HitPiece's pitch is going to google them and see the past headlines, he replies, "I'm sure there may be some artists that it's a hurdle for them. And we're happy to speak to them if they have any questions about what happened and where we're going."

The challenges Felton and HitPiece face are perhaps best summed up by Dupuis. "If HitPiece have figured out a way to run their business without infringing on IP, that's certainly an improvement over the messy and illegal beta version they made public earlier this year," she says. "But it's certainly not a service I'd be opting into anytime soon — or ever."

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# EXHIBIT 21



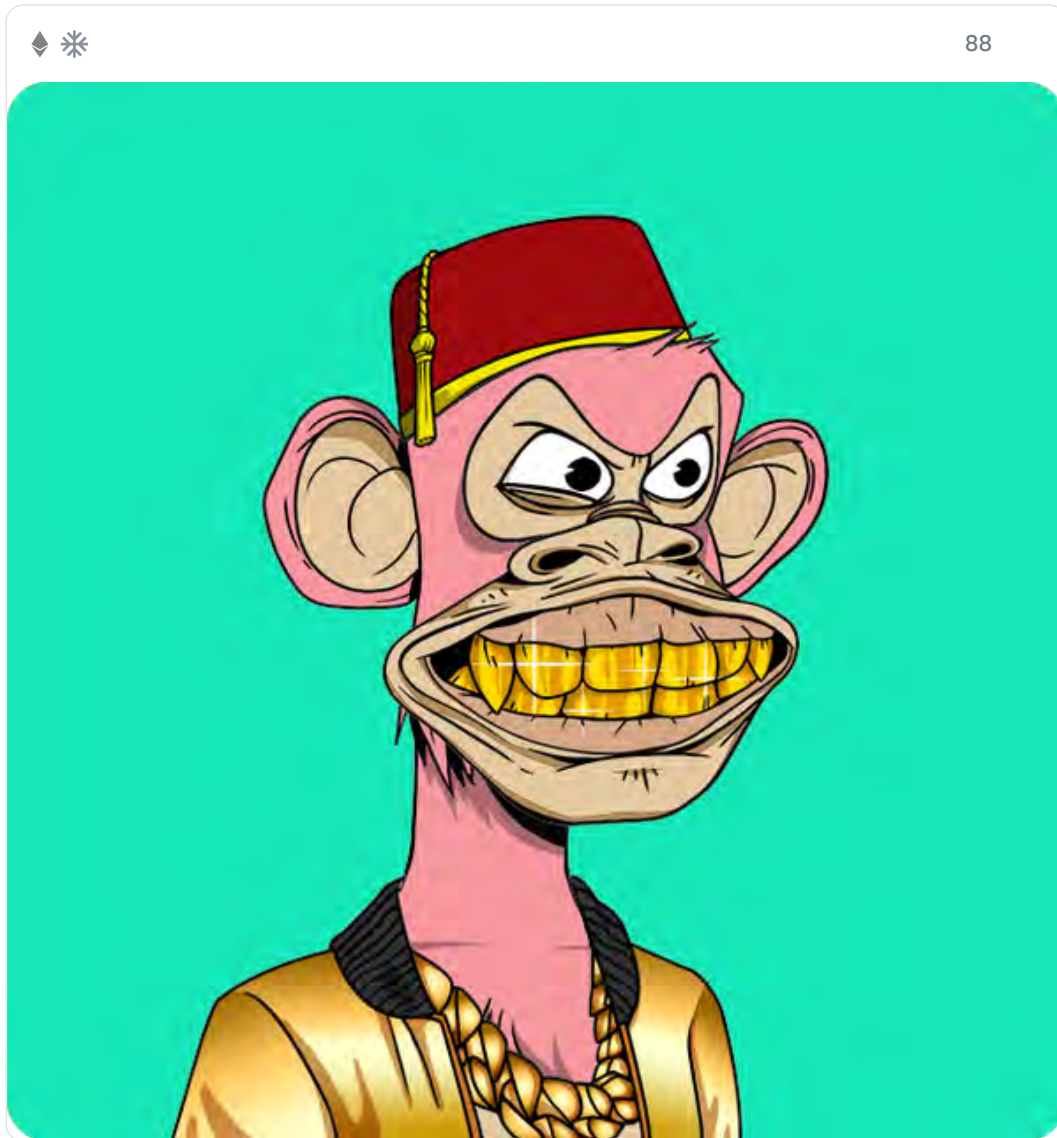
3721 - Bored Ape Yacht Club | OpenSea



**OpenSea**

Bored Ape Yacht Club 

# #3721



Owned by 6B83B6

3.8K views

88 favorites

Best offer

(\$141,542.76)



3721 - Bored Ape Yacht Club | OpenSea

## 85.2

## Make offer

## Price History

## Listings

## Offers

Price    USD Price    Floor Difference    Expiration    From

### Description

By BoredApeYachtClub 

## Properties

## BACKGROUND

## Aquamarine

13% have this trait

## CLOTHES

## Hip Hop

1% have this trait

## EYES

## Angry

4% have this trait

FUR

Pink

5% have this trait

HAT

Fez

4% have this trait

## MOUTH

## Grin Gold Grill

0.91% have this trait

## About Bored Ape Yacht Club



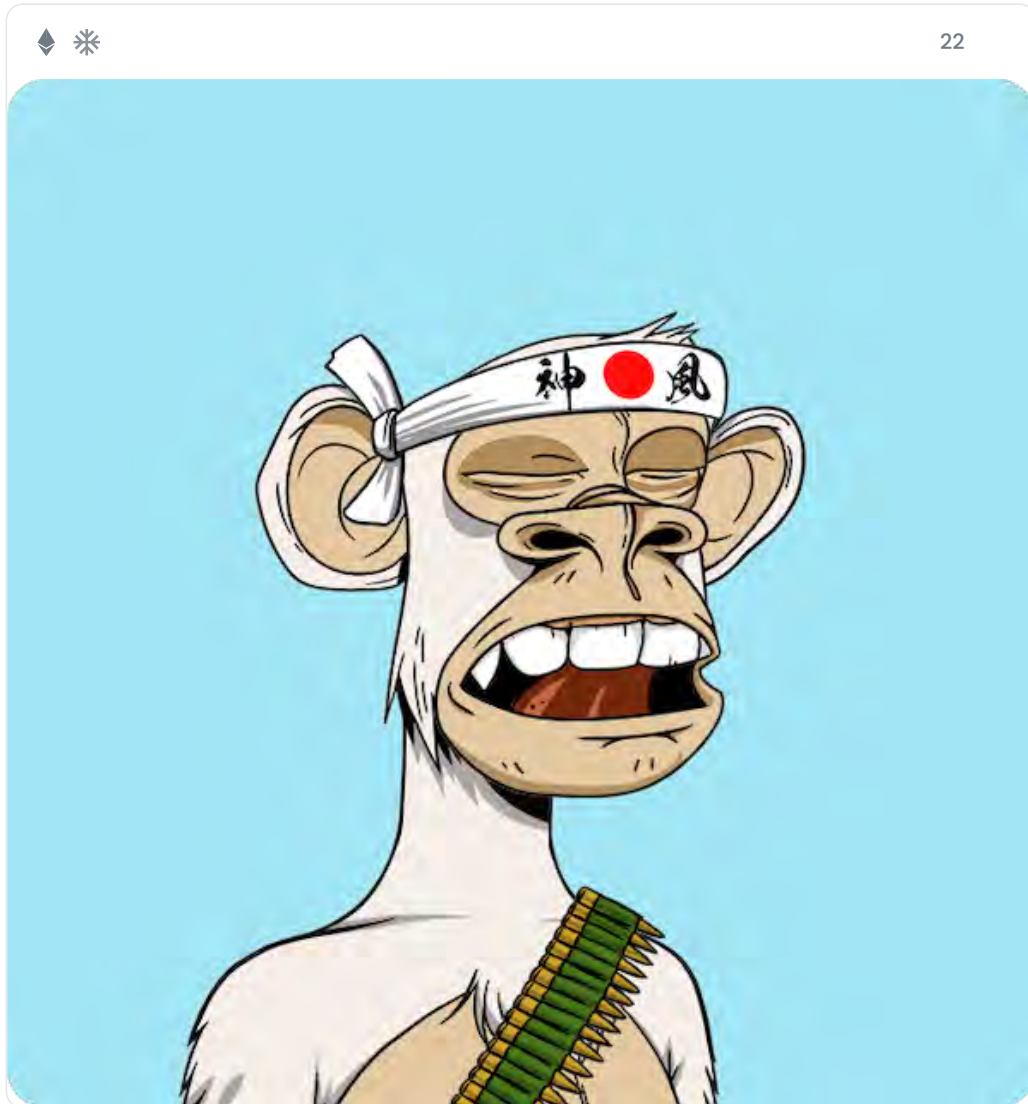
# EXHIBIT 22





Bored Ape Yacht Club 

# #6281



Owned by TOKYOTOKEN4

642 views

22 favorites

Best offer

**76.3251** (\$143,764.43)

### Make offer

## Price History

## Listings

## Offers

Price

USD Price

Floor Difference

Expiration

From




8/11/22, 3:32 PM

6281 - Bored Ape Yacht Club | OpenSea

76.3251 WETH    \$143,764.43    9% below    42 minutes    [PuruKr](#)

Description

By **BoredApeYachtClub** 

Properties

BACKGROUND

Blue

12% have this trait

CLOTHES

Bandolier

2% have this trait

EYES

Closed

7% have this trait

FUR

White

4% have this trait

HAT

Sushi Chef Hea...

2% have this trait

MOUTH

Phoneme L

2% have this trait

About Bored Ape Yacht Club

Details

Item Activity

Filter

Sales

Transfers

Clear All

Event	Price	From	To	Date
Transfer		<a href="#">TOKYOTOKEN</a>	<a href="#">TOKYOTOKEN4</a>	<a href="#">a</a>
Sale	141	<a href="#">jamis</a>	<a href="#">TOKYOTOKEN</a>	2
Transfer		<a href="#">jamis</a>	<a href="#">TOKYOTOKEN</a>	2
Minted		<a href="#">NullAddress</a>	<a href="#">jamis</a>	<a href="#">a</a>

More From This Collection

View collection

https://opensea.io/assets/ethereum/0xbc4ca0eda7647a8ab7c2061c2e118a18a936f13d/6281

2/2

ER146

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Page 2



# EXHIBIT 25




8/2/22, 8:03 PM

RYDER RIPPS on Twitter: "bringing light to BAYC and the nature of NFT, also helping fund the research. Its not different than a ne..."

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**Moure** @Moure\_eth · 7m

So you're telling me [@ryder\\_ripps](#) has been calling bayc racist for months but is now selling "rr/bayc"... am I missing something or is this dude just a grifter lol

1




**RYDER RIPPS**  @ryder\_ripps · 6m

[gordongoner.com](#)

1


1




**Moure** @Moure\_eth · 5m

ive read the claims lol I don't see how this explains selling rr/bayc

1



**RYDER RIPPS**  [@ryder\\_ripps](#)


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bringing light to BAYC and the nature of NFT, also helping fund the research. Its not different than a newspaper selling issues that feature the news about a murderer or some other unsavory thing.. the news is important for well informed society.

9:52 PM - 14 May 2022

2 Likes



Bridgfolk

2

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So you're telling me @ryder\_ripps has been calling bayc racist for months but is now selling "rr/bayc"... am I missing something or is this dude just a grifter lol


1



**RYDER RIPPS** @ryder\_ripps · 6m

[gordongoner.com](https://gordongoner.com)


1



**Moure** @Moure\_eth · 5m

ive read the claims lol I don't see how this explains selling rr/bayc

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**RYDER RIPPS** @ryder\_ripps


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2 Likes



Bridgfolk

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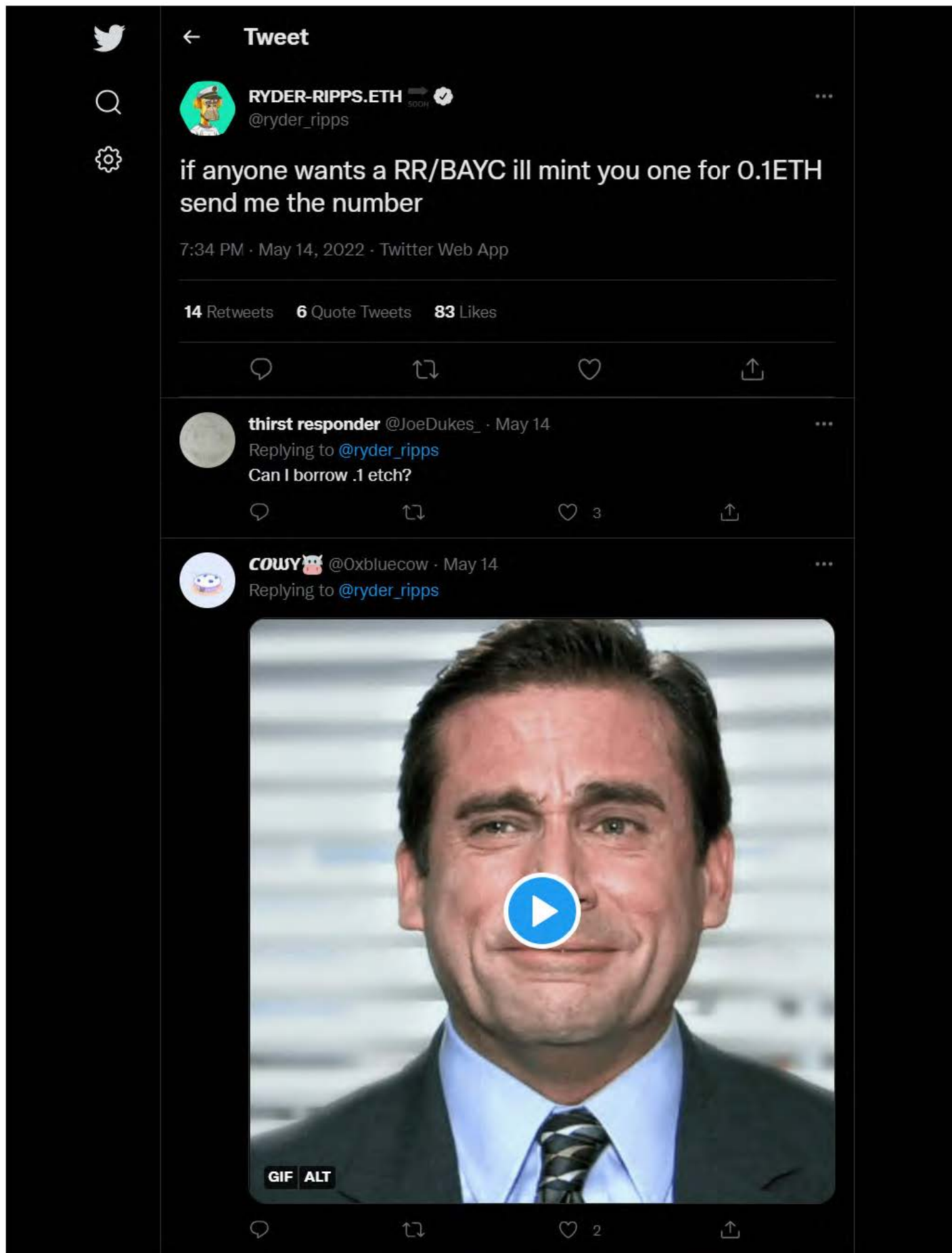


# EXHIBIT 27



8/11/2022

RYDER-RIPPS.ETH



[https://twitter.com/ryder\\_ripps/status/1525620586357018624](https://twitter.com/ryder_ripps/status/1525620586357018624)

ER151

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8/11/2022


RYDER-RIPPS.ETH

**P1** @P1MVP1 · May 14  
Replying to [@ryder\\_ripps](#)  
Who owns the original of this whats the story ? 🤔

**dres** verified @dresmars · May 14  
Ryder does, look at the hexagon.

**Kuma420.eth** @Kuma420ETH · May 14  
Replying to [@ryder\\_ripps](#)  
I call 1726 franklins DIBS lol

**RYDER-RIPPS.ETH** verified @ryder\_ripps · May 14



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Foundation is a web3 destination.

Show replies


**WeThePeople** @hbyead · May 14  
Replying to [@ryder\\_ripps](#)  
Send me a copy of yours

**nonlethal (NEW DROPS ON ETH+TEZ)** @nonlethalart · May 14  
Replying to [@ryder\\_ripps](#)  
you guys have been cracking me up late night in the spaces with this shit...  
give me 528 fuck it



8/11/2022

RYDER-RIPPS.ETH




**RYDER-RIPPS.ETH**
300H
verified
@ryder\_ripps · May 14
...

foundation.app/@ryder\_ripps/b...

3
1
7

Show replies




**James Kimber**
@james\_kimber · May 14
...

Replying to @ryder\_ripps

Is RR/BAYC 599 taken?

2

2




**RYDER-RIPPS.ETH**
300H
verified
@ryder\_ripps · May 14
...

nope

1

1

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**thirst responder**
@JoeDukes\_ · May 14
...

Replying to @ryder\_ripps

12389

1




**Kuma420.eth**
@Kuma420ETH · May 14
...

Replying to @ryder\_ripps

Whats is a rr/bayc?


1



**gaffySLICK**
END
@Califormulated · May 14
...

Replying to @ryder\_ripps


8675309



**LaaLaa.eth**
(اسلام.eth : this will sold for 777...
@LaaLaa\_e... · May 14
...

Replying to @ryder\_ripps

4503 bro




**MIKE G| clownphunk.eth**
300H
@MetaMikeG · May 14
...

Replying to @ryder\_ripps

Sign me up for 7123 please. (DM for promo😂)

1



**austin patrick bishop**
🇺🇸 @austinbishop · May 14
...

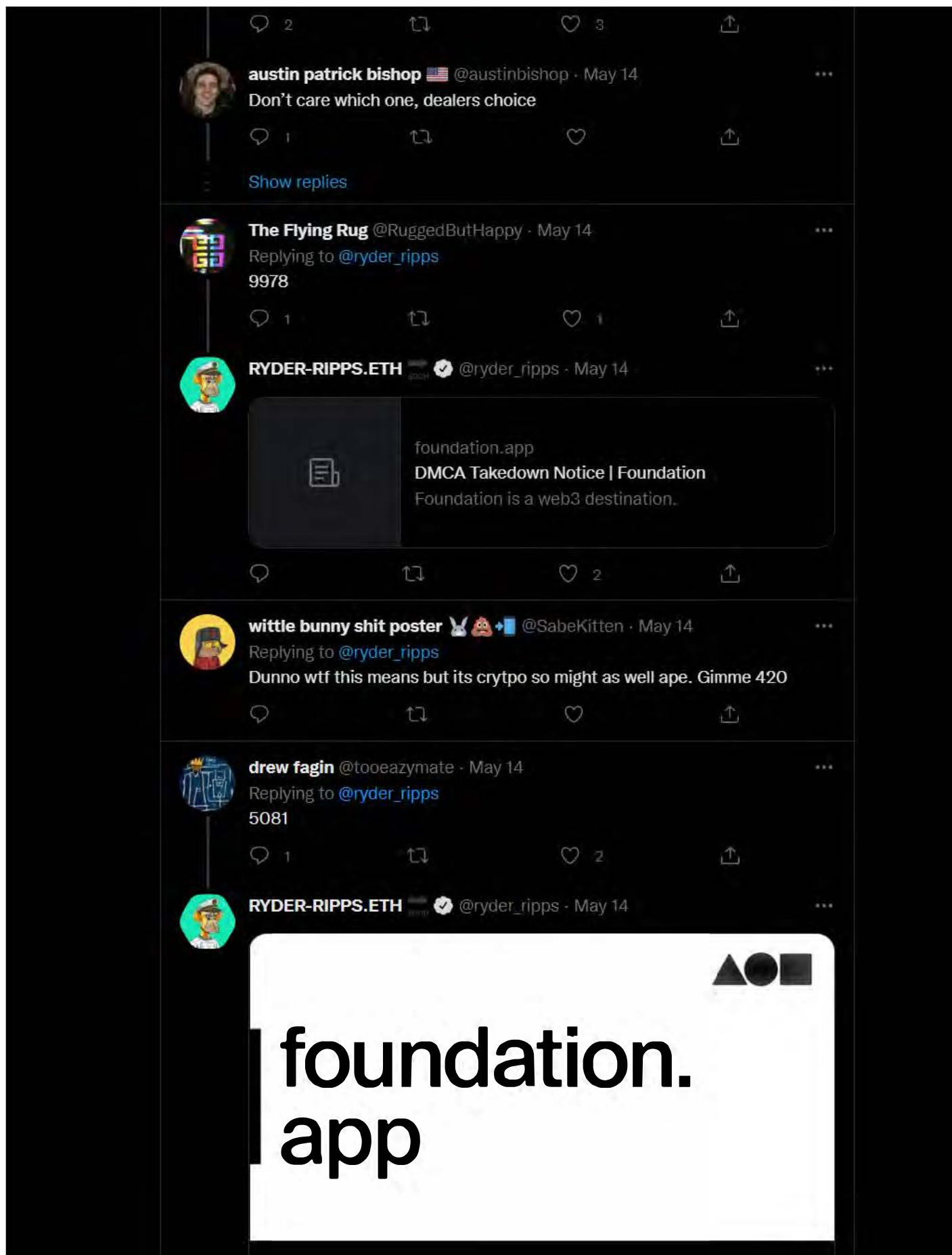
Replying to @ryder\_ripps and @PaulyOx

Hook me up :)



8/11/2022

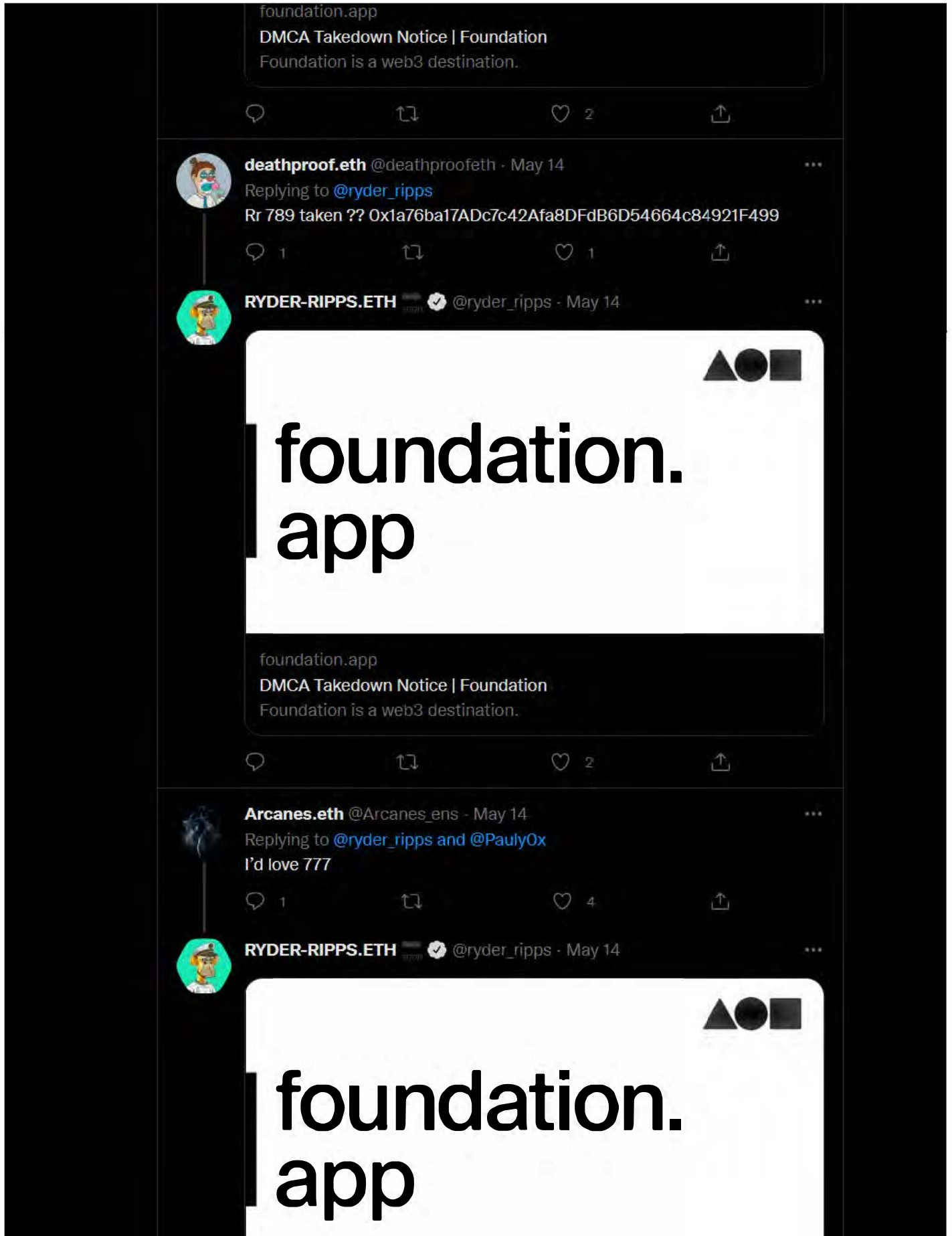
RYDER-RIPPS.ETH





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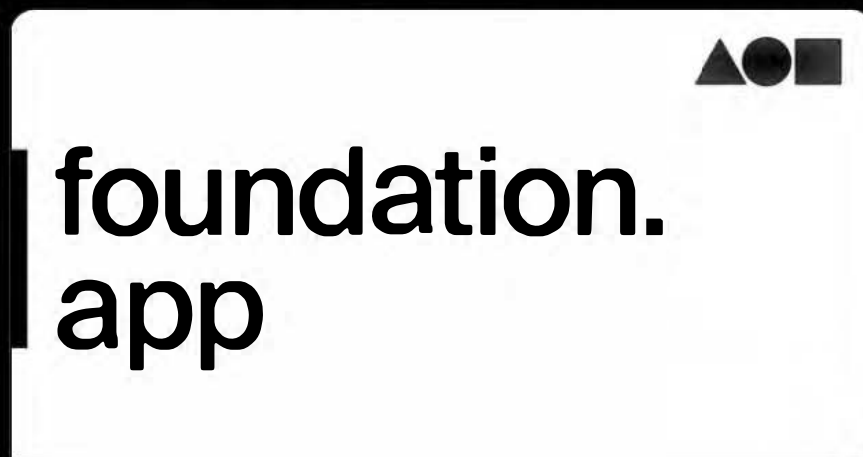
**The Brain** @thewatvher · May 14

Replying to @ryder\_ripps

Let me get one Rider, you make the choice



**RYDER-RIPPS.ETH** @ryder\_ripps · May 14



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**RYDER-RIPPS.ETH** @ryder\_ripps · May 14

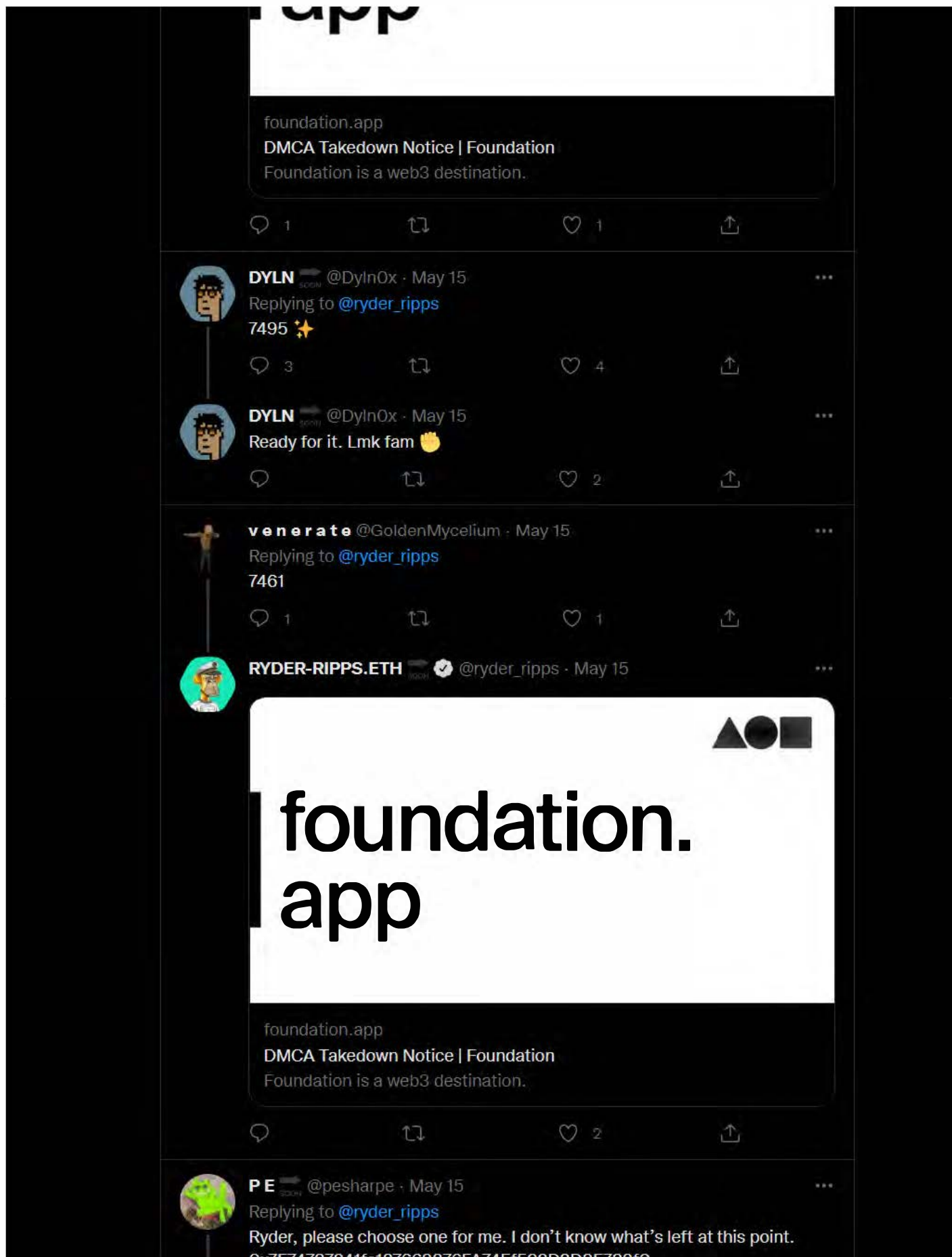
buy this one





8/11/2022

RYDER-RIPPS.ETH



https://twitter.com/ryder\_ripps/status/1525620586357018624

ER157

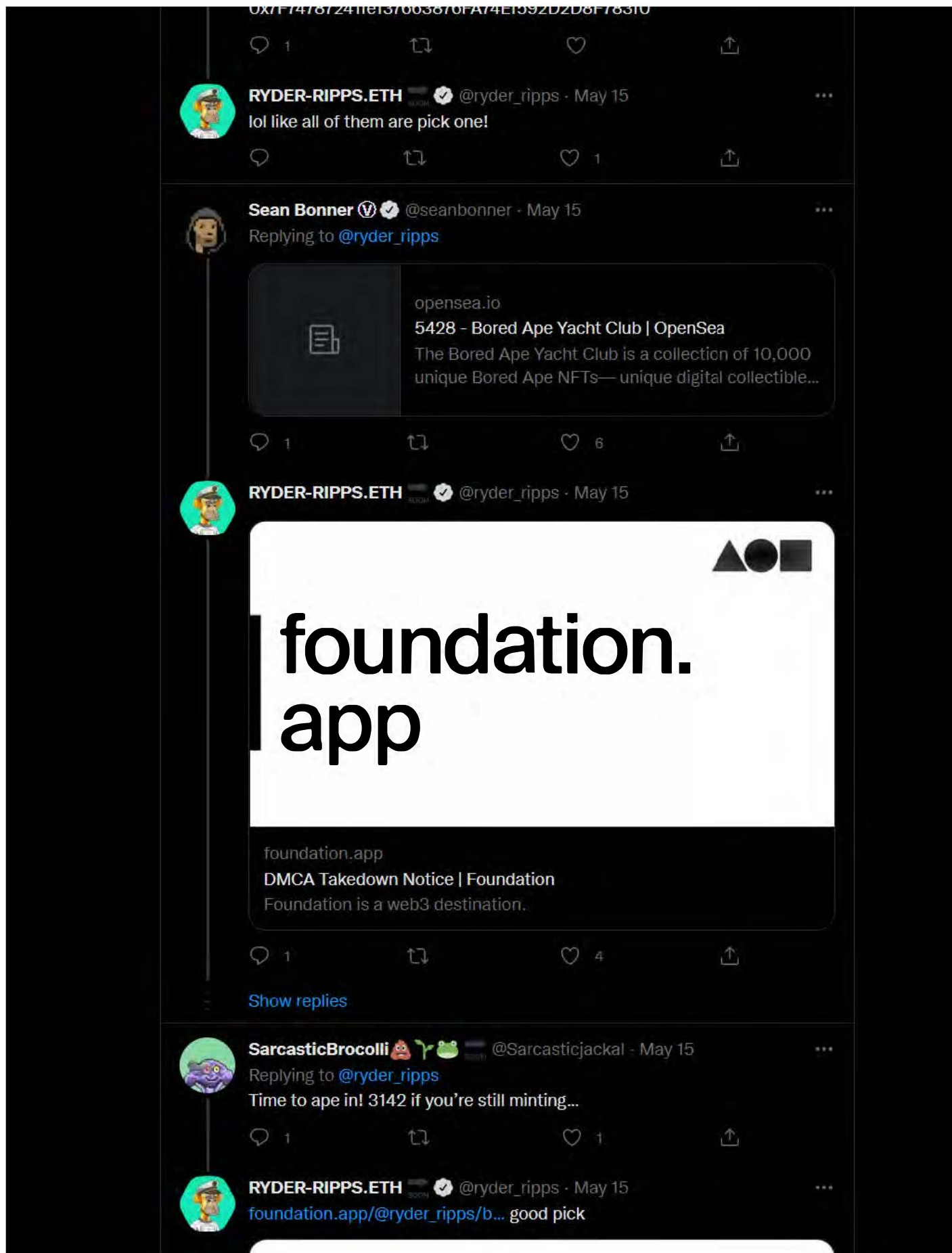
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RYDER-RIPPS.ETH





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RYDER-RIPPS.ETH



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**Taylor Fisher** @taylor\_\_fisher · May 14

Replying to @ryder\_ripps

Can I order #3062?



1



**Taylor Fisher** @taylor\_\_fisher · May 14

Wait i need #9449 LMFAO



1



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**Luis Jairol** @llamascapel @operationSIN @luisrojo7 · May 14

Replying to @ryder\_ripps

I poor



**Diegotft** @diegotft21 · May 14

Replying to @ryder\_ripps

0xf10439002216758e926e0e6ef022c693EF7Cf269



1



**Diegotft** @diegotft21 · May 14

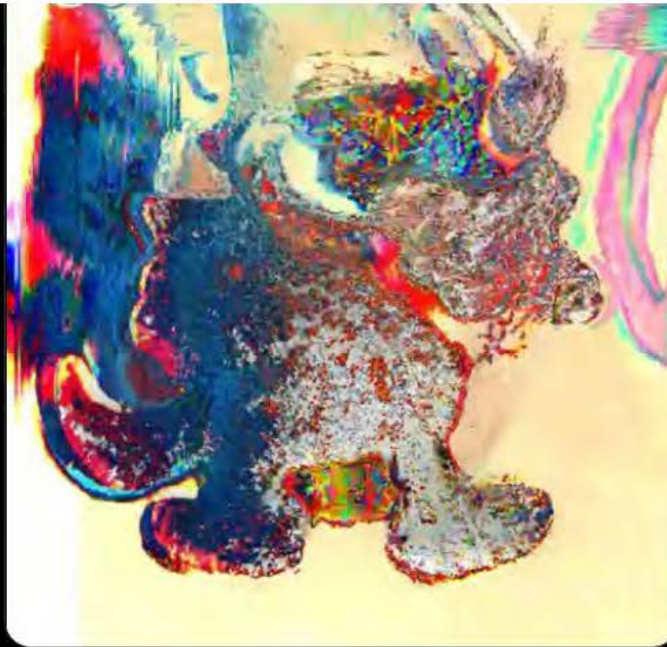
777





8/11/2022

RYDER-RIPPS.ETH



Comment icons: reply, retweet, like (2), share



**hi-gm.eth** 300H [@piccassoeth](#) · May 14  
Replying to [@ryder\\_ripps](#)  
5786 Thanks!

Comment icons: reply, retweet, like (1), share



**sadat.eth** [@sadatmirxa](#) · May 15  
Replying to [@ryder\\_ripps](#)  
8774?

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**RYDER-RIPPS.ETH** 300H  [@ryder\\_ripps](#) · May 15  
[foundation.app/@ryder\\_ripps/f...](#) minted that one previously

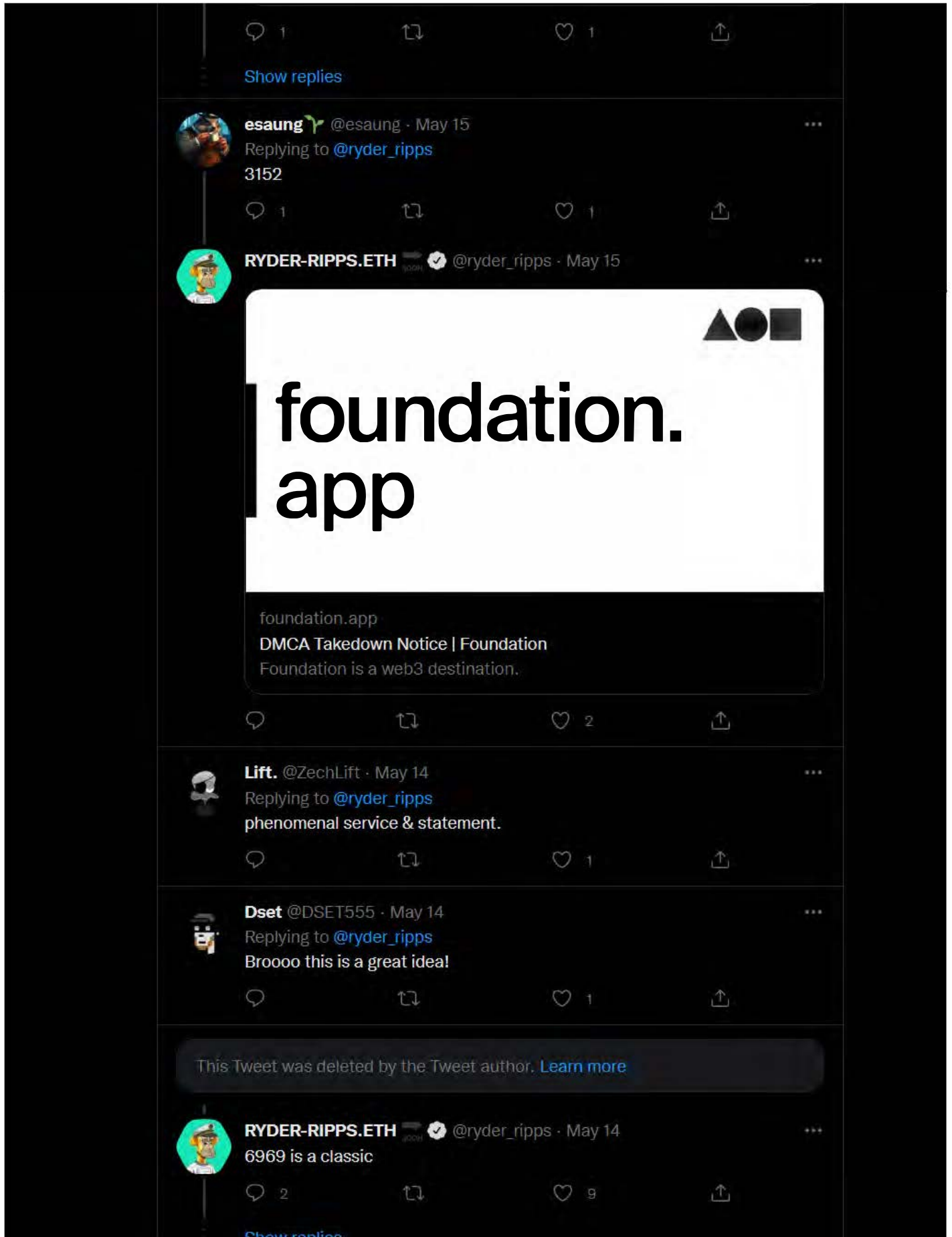


[foundation.app](#)  
**Ape #8774 | Foundation**  
Foundation is a web3 destination.



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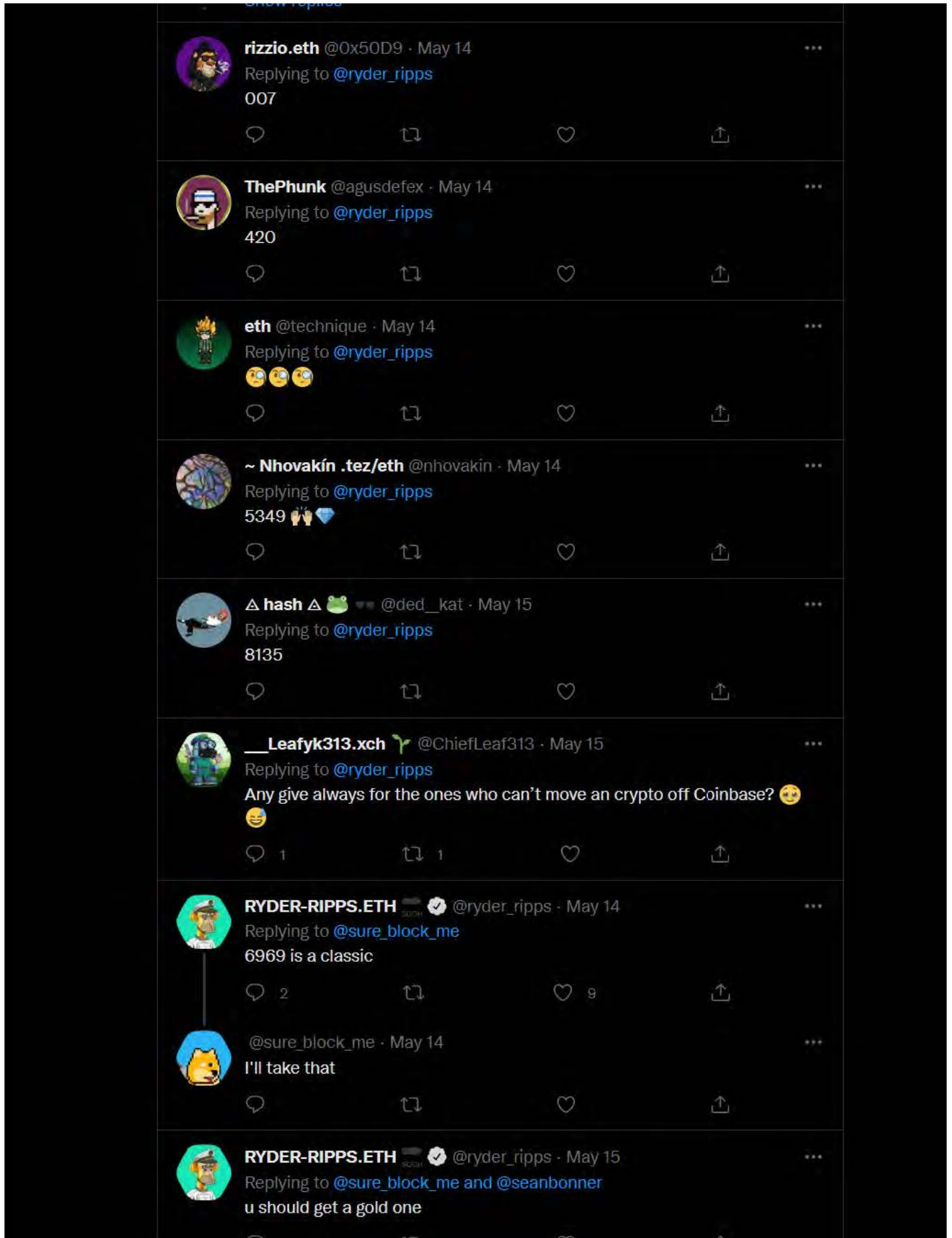
RYDER-RIPPS.ETH





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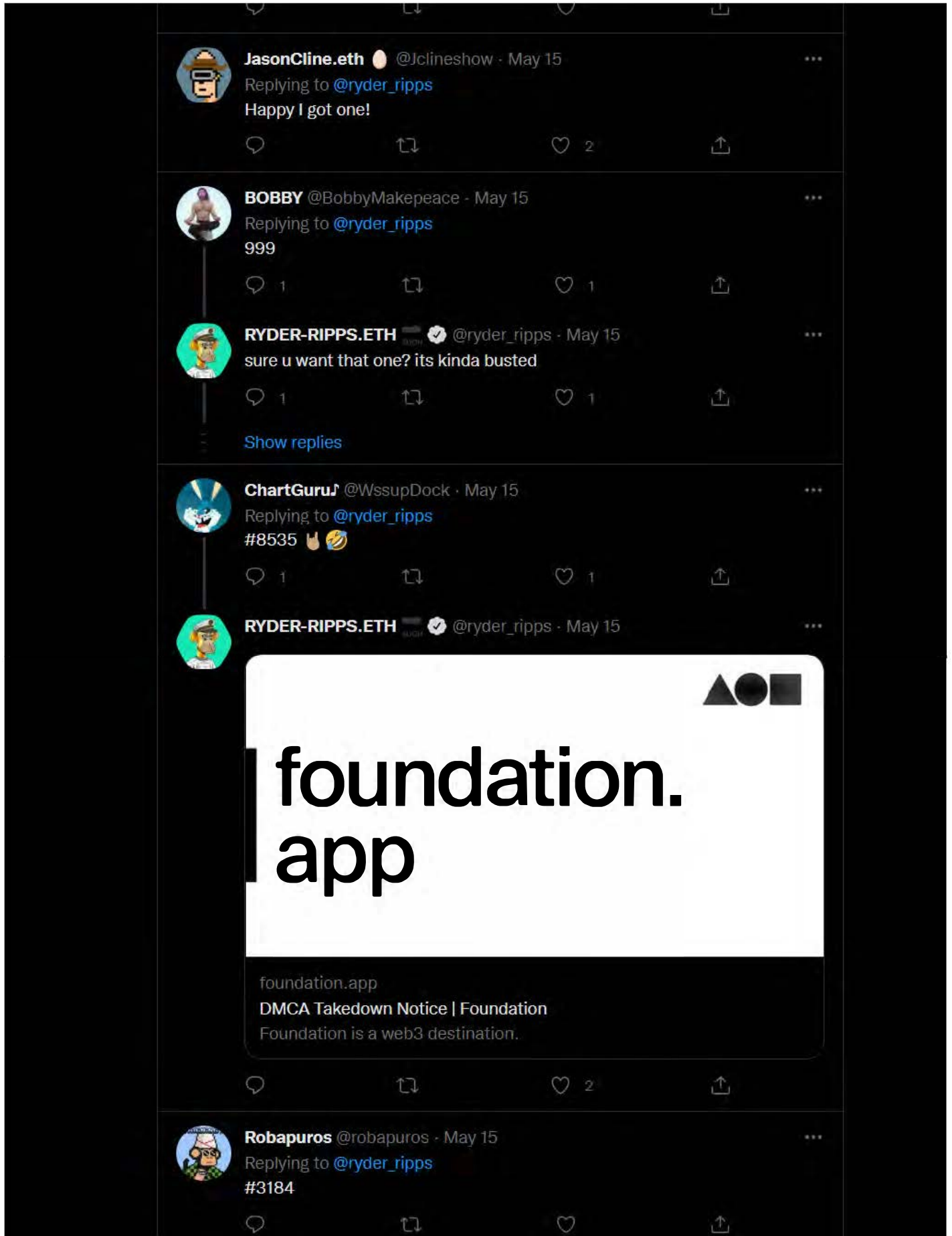
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RYDER-RIPPS.ETH



https://twitter.com/ryder\_ripps/status/1525620586357018624

ER163

Exhibit 27  
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8/11/2022

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**mike three** @enjoyoor · May 15  
Replying to @ryder\_ripps



opensea.io

9055 - Bored Ape Yacht Club | OpenSea

The Bored Ape Yacht Club is a collection of 10,000 unique Bored Ape NFTs— unique digital collectibles living on the Ethereum blockchain. ...



2



**Mistershot.eth** @MisterPente · May 15  
Replying to @ryder\_ripps and @enjoyoor  
#4241 ❤️



1



**PawDee\_Pleiades** @PawDee23 · May 15  
Replying to @ryder\_ripps  
😞



**Jeffrey Posner** @jeffreyposner · May 15  
Replying to @ryder\_ripps  
Is this still happening?? If so can I get, 108108 <3



**LC** @LC\_XBT · May 15  
Replying to @ryder\_ripps  
@ryder\_ripps should I DM?



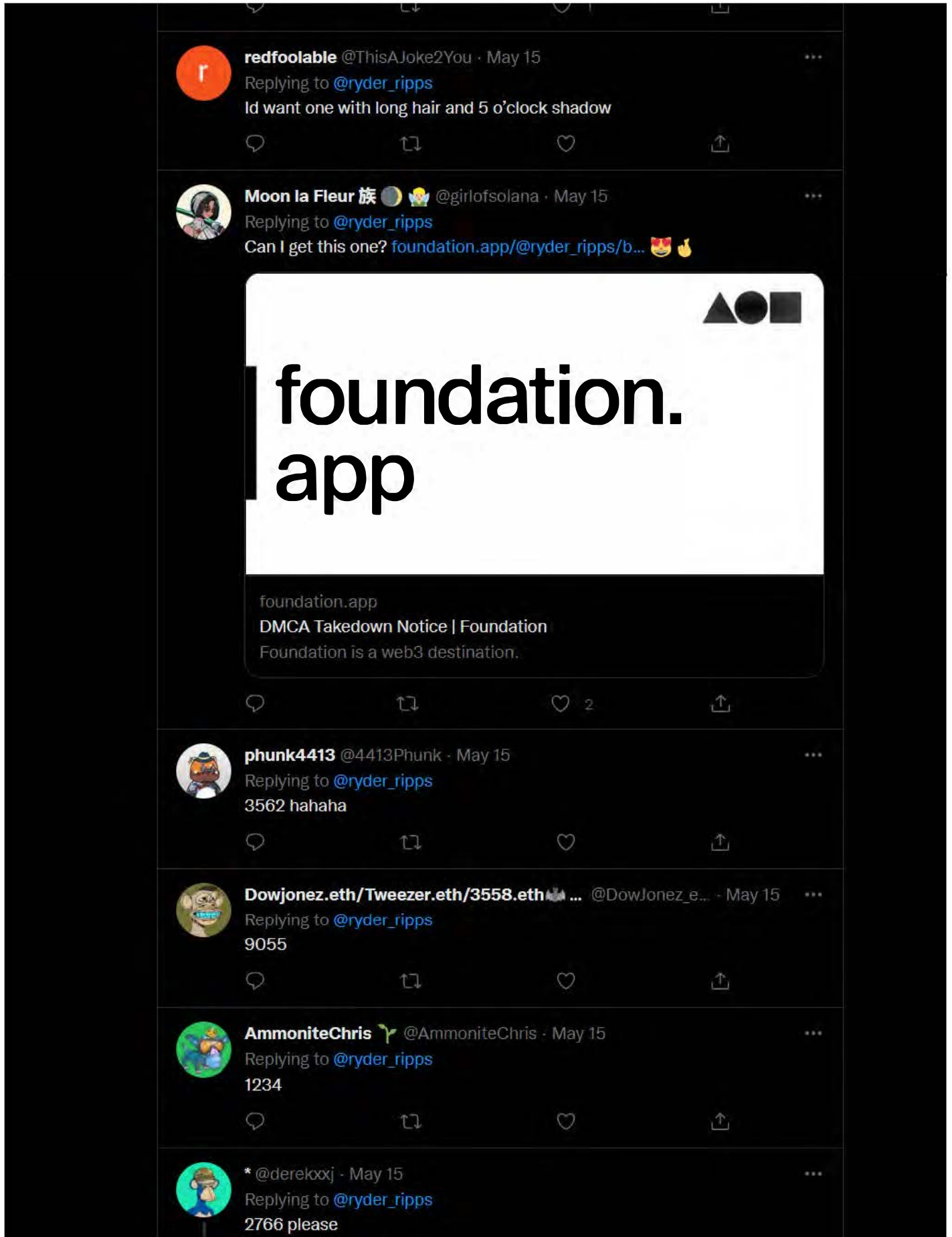
**9272** @financenewsguy · May 15  
Replying to @ryder\_ripps  
9272 pls





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RYDER-RIPPS.ETH



https://twitter.com/ryder\_ripps/status/1525620586357018624

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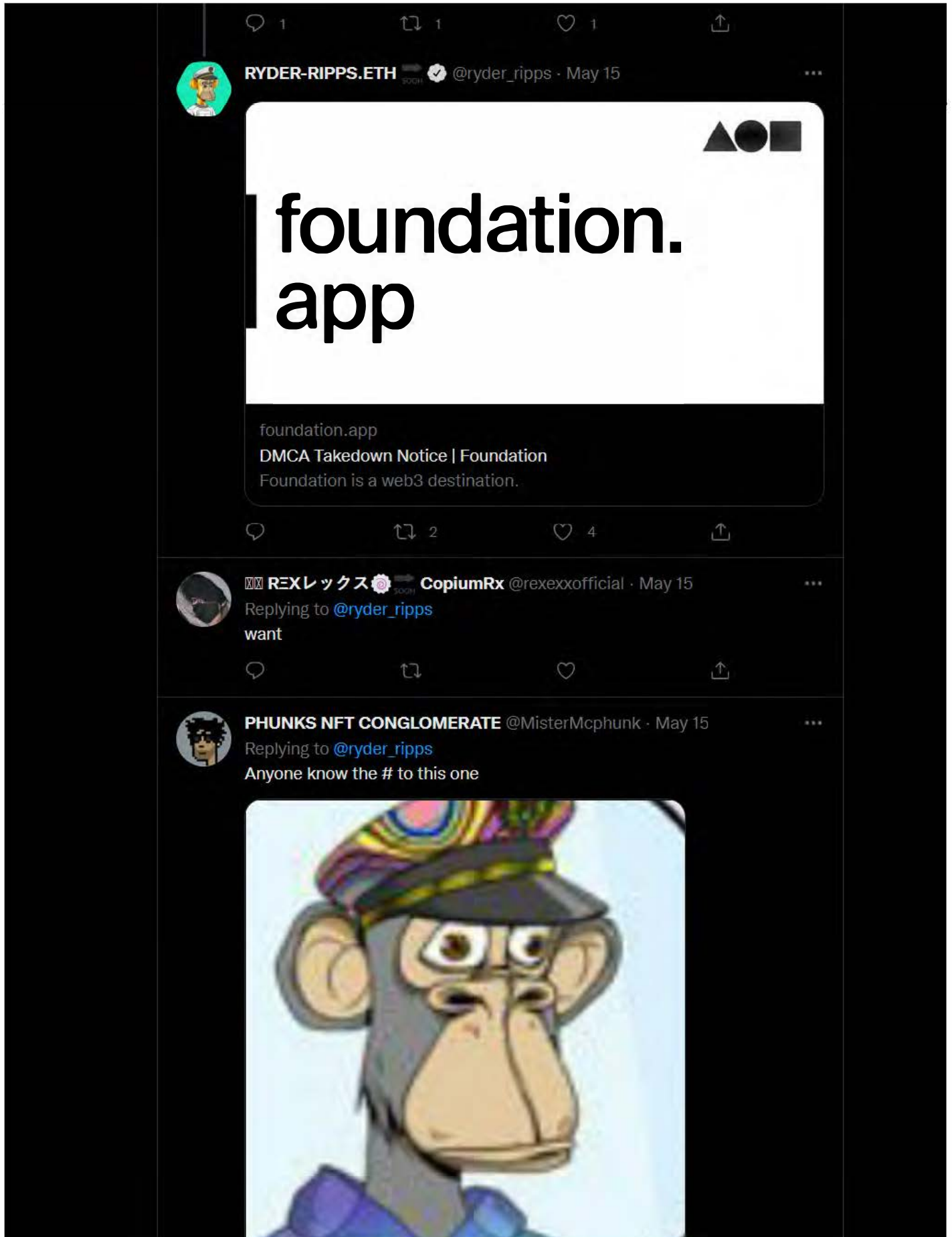
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Page 15

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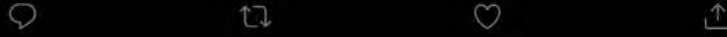
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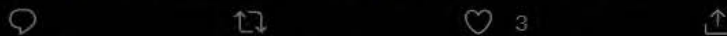
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RYDER-RIPPS.ETH



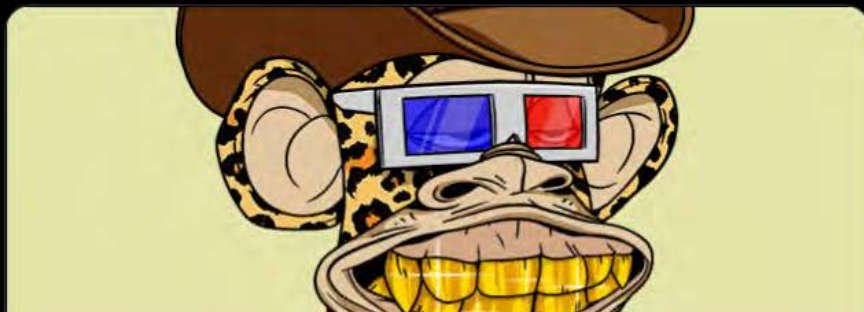
**9999999333** @phunk2243 · May 15

Replying to @ryder\_ripps  
#2802



**DARTHFADER41.ETH** @DarthFader41 · May 15

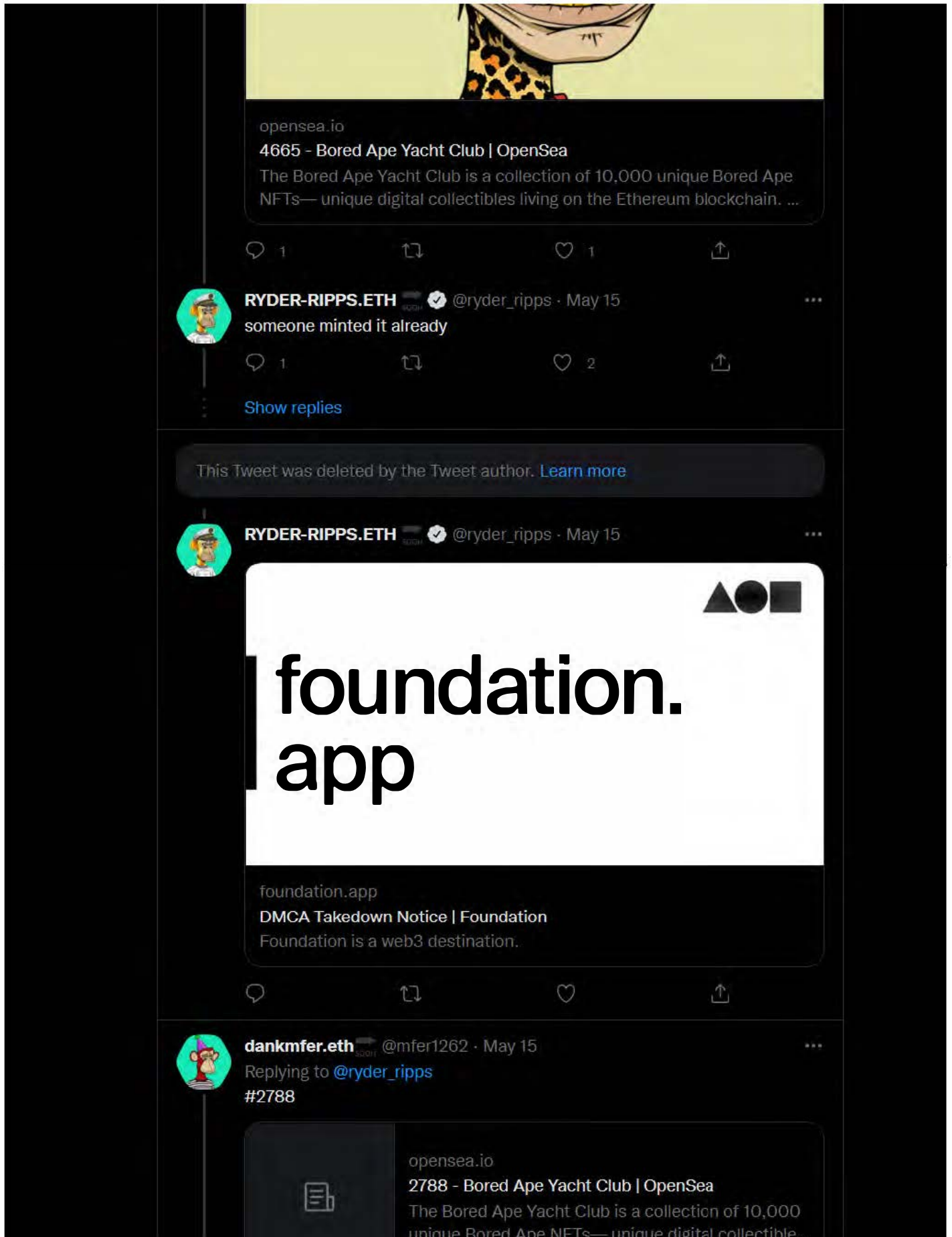
Replying to @ryder\_ripps  
#4665 please!





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RYDER-RIPPS.ETH



[https://twitter.com/ryder\\_ripps/status/1525620586357018624](https://twitter.com/ryder_ripps/status/1525620586357018624)

ER168

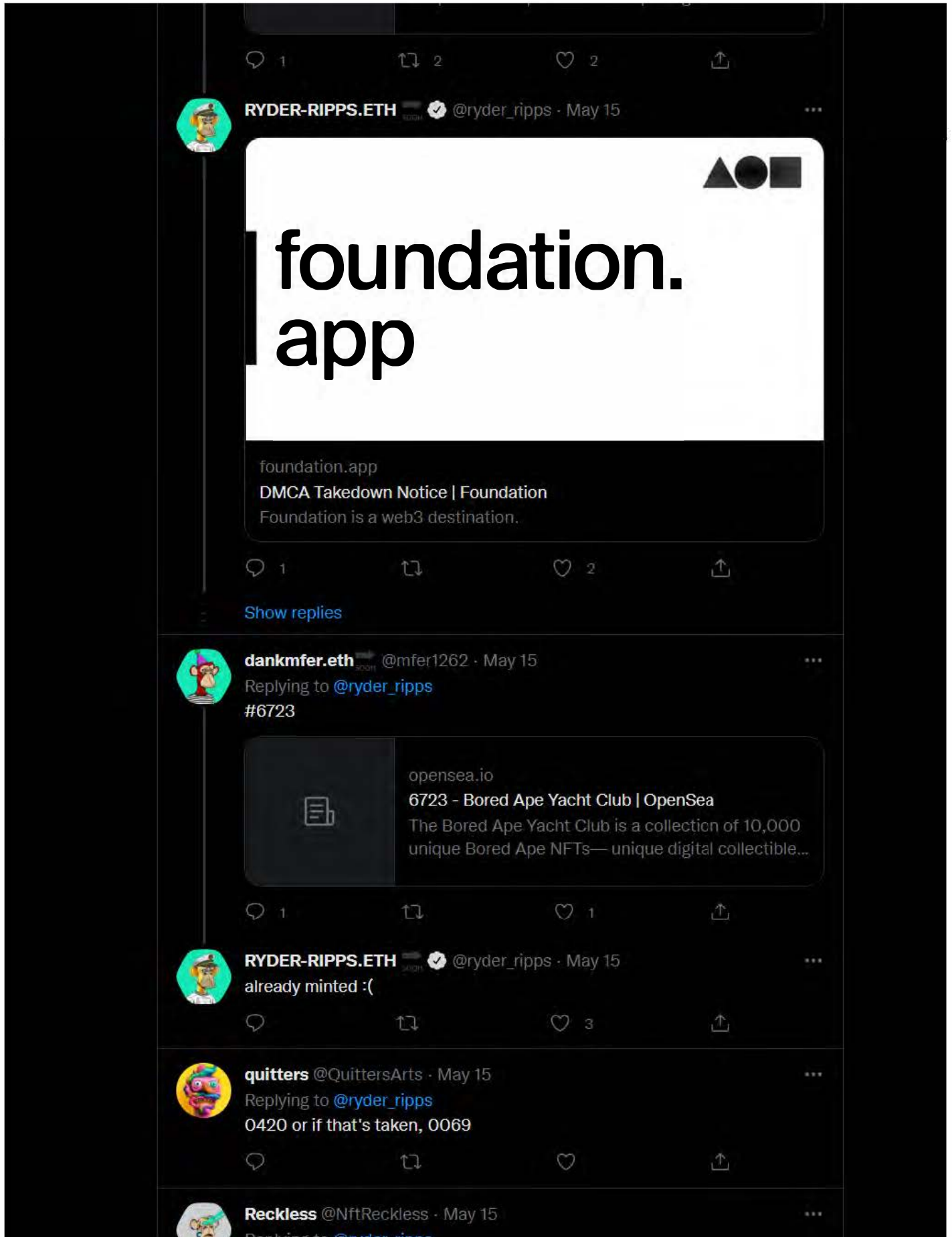
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8/11/2022

RYDER-RIPPS.ETH



https://twitter.com/ryder\_ripps/status/1525620586357018624

ER169

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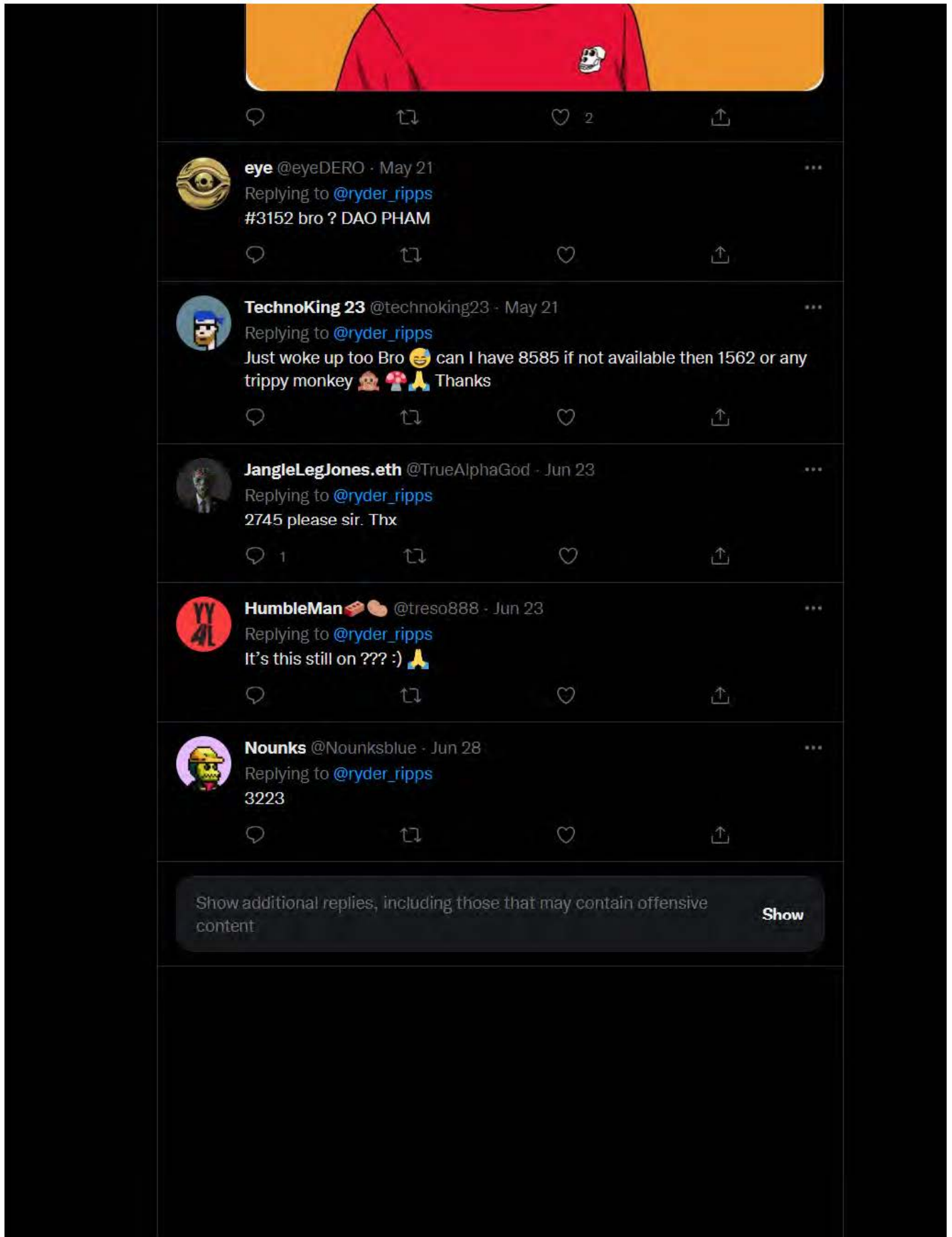
- Replying to @ryder\_ripps  
Can i please mint 9361
- Alao** @Arelowo · May 15  
Replying to @ryder\_ripps  
Guess you figured out the base URL 🤔
- Jeffrey Posner** @jeffreyposner · May 17  
Replying to @ryder\_ripps  
How do I get an ape! Is 108108 available?
- LEVRAI** @LevraiYann · May 18  
Replying to @ryder\_ripps  
GM. What about 2212 ?
- David Gora** @blkmsn · May 21  
Replying to @ryder\_ripps  
How about 2079
- Vaan** 🏴‍☠️ @Vann\_4 · May 21  
Replying to @ryder\_ripps  
Can I get #5612 bro 🙏? Just woke up lol





8/11/2022

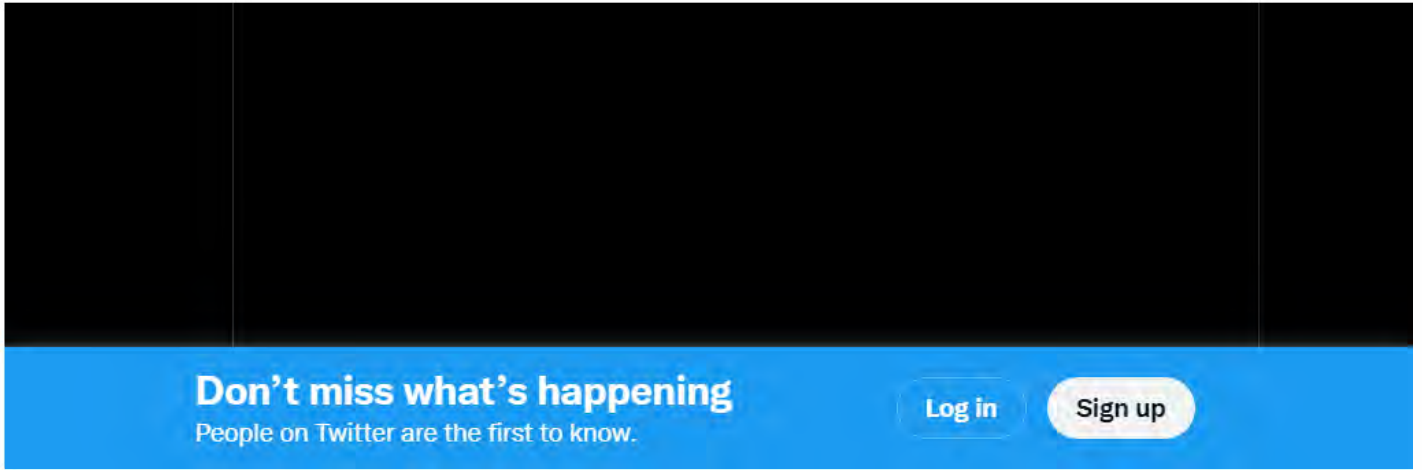
RYDER-RIPPS.ETH





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RYDER-RIPPS.ETH



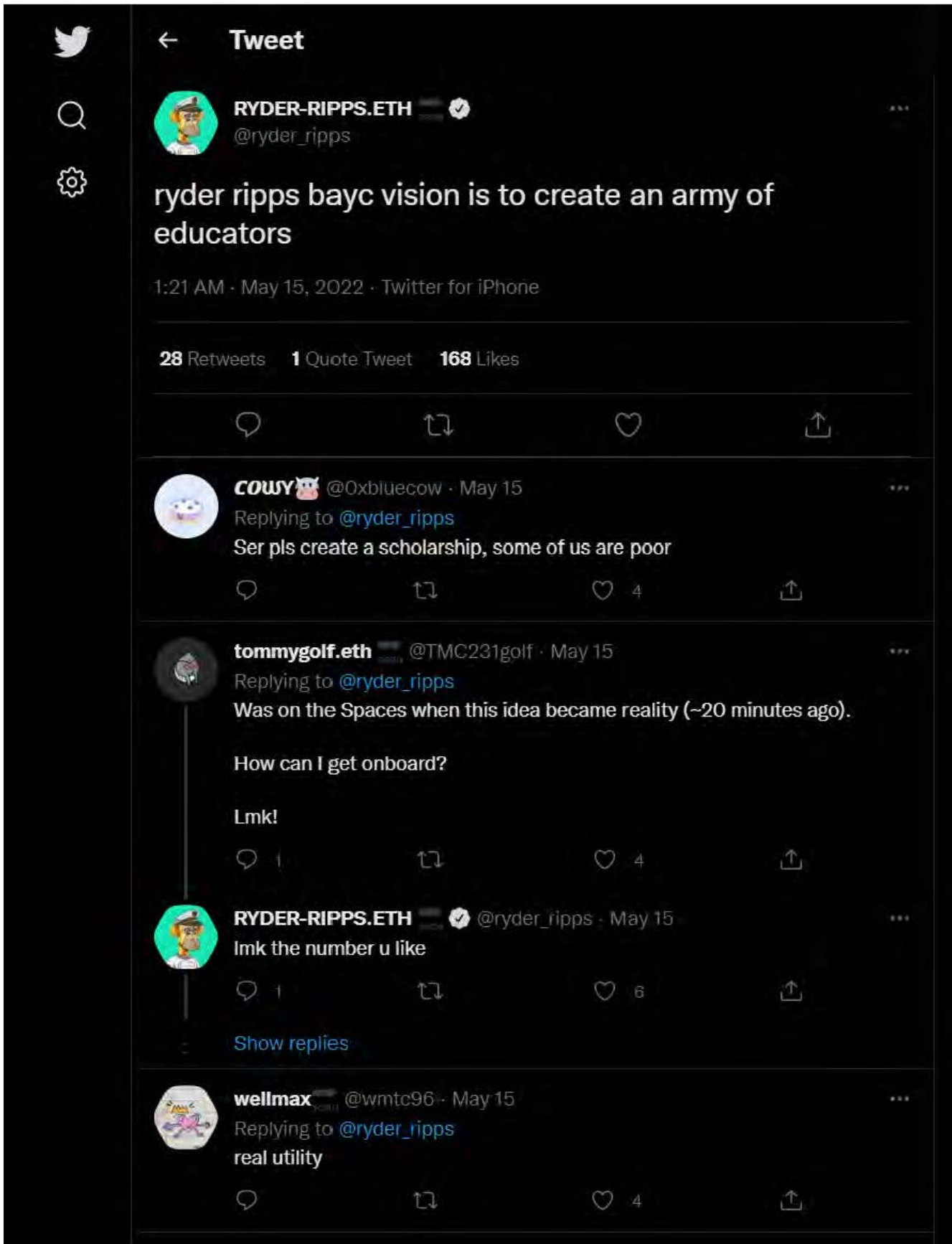


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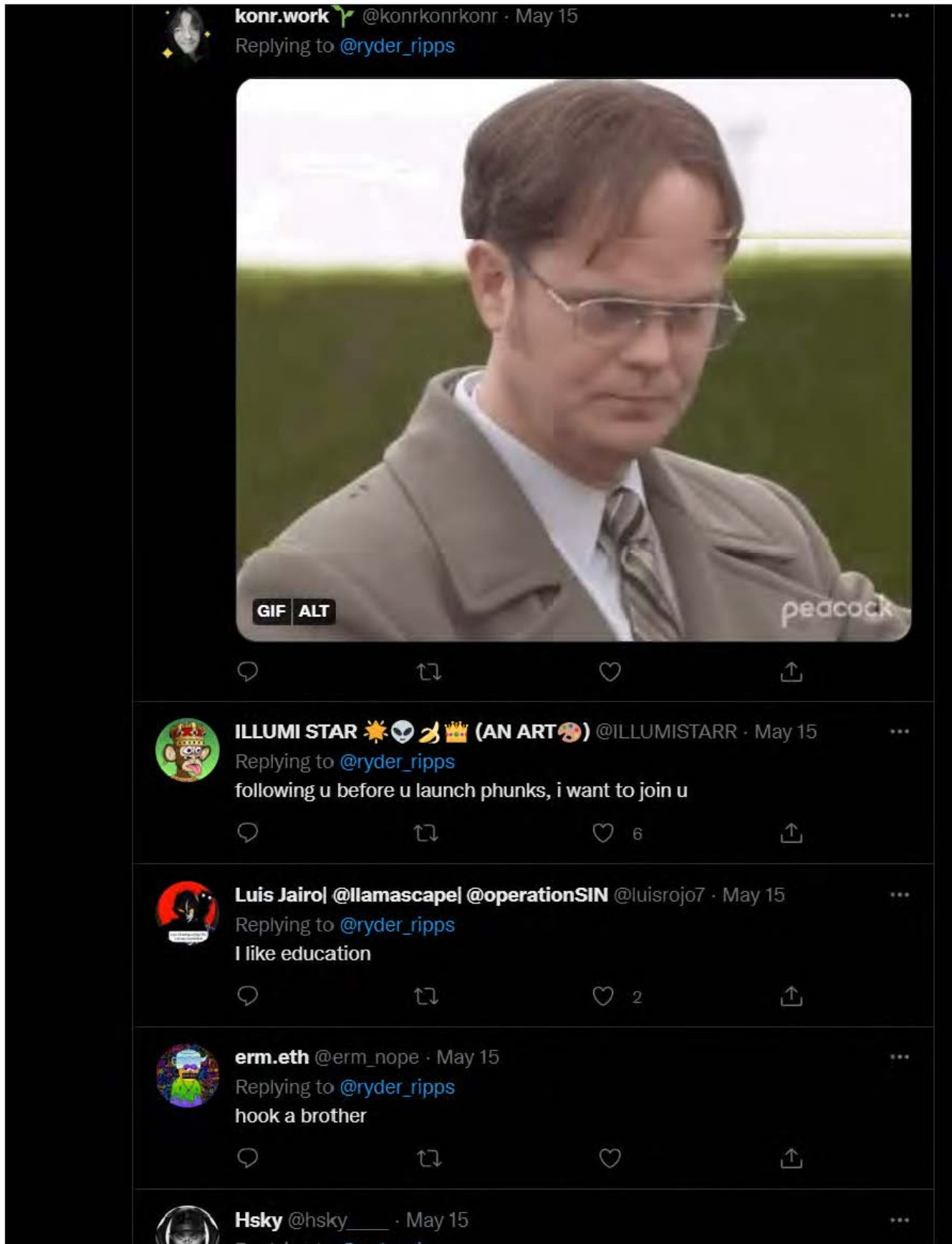
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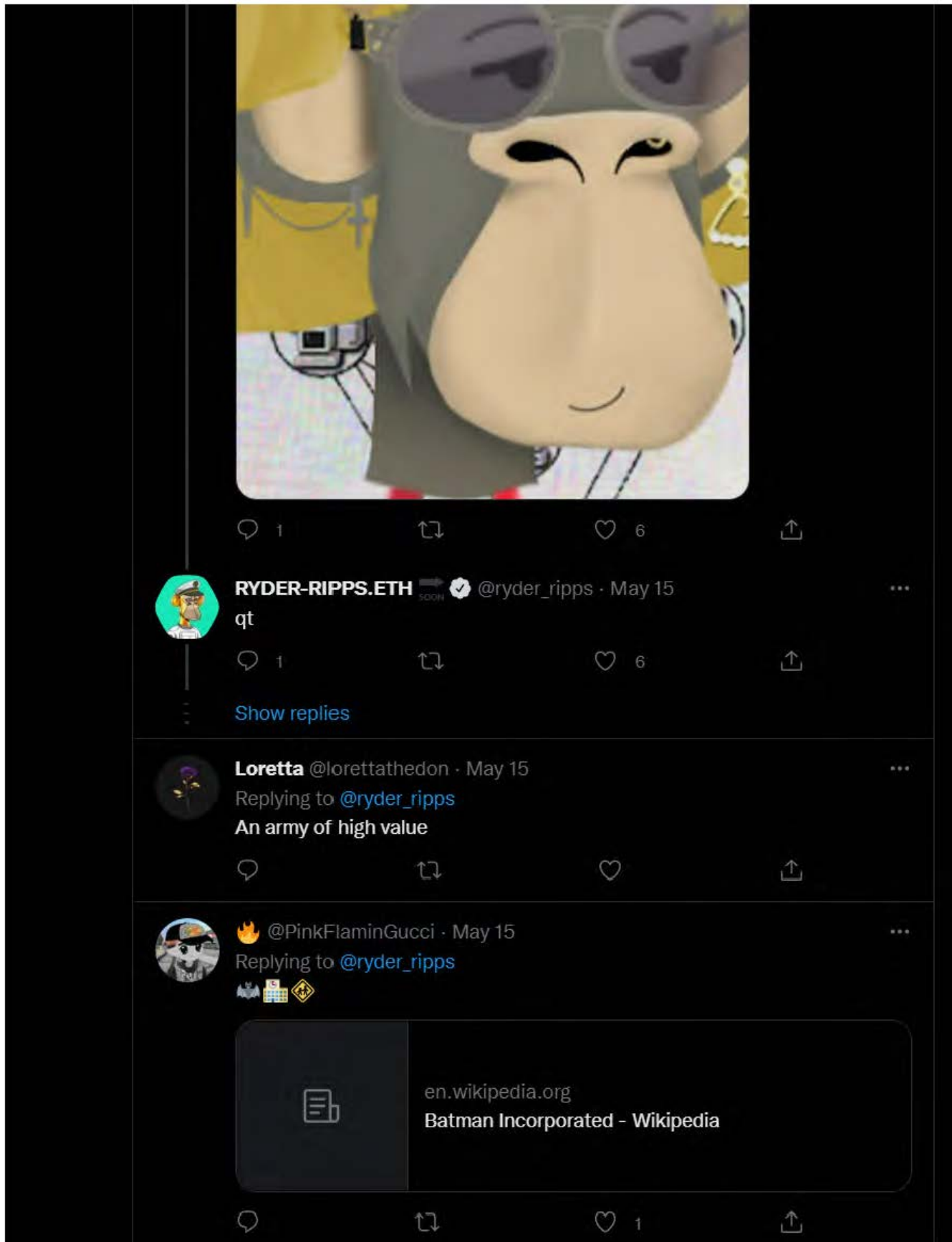
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RYDER-RIPPS.ETH








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RYDER-RIPPS.ETH


**Aristhodie.eth | basedintern.eth** @aristhodie · May 30  
Replying to @ryder\_ripps  
But more educators means more learners, pauly said those are bad

**Reveri** @DougDessimoni · May 30  
Replying to @ryder\_ripps  
can you guys send me the discord? thanks

**citizen thorby** @Citizen\_Thorby · Jul 25  
Replying to @ryder\_ripps  
From day one.

**EvilGaryGenslooor** @dumpproject · Jul 25  
Replying to @ryder\_ripps  
You forgot the to complete that sentence:  
  
"...that lines your pockets"

**BAdenazifiedYC** @BAdenazifiedYC · Jul 25  
Replying to @ryder\_ripps  
we are joining the movement and hope to increase it further. an educated web3 is a web3 free of oppressive/nazi/4chan symbolism and culture

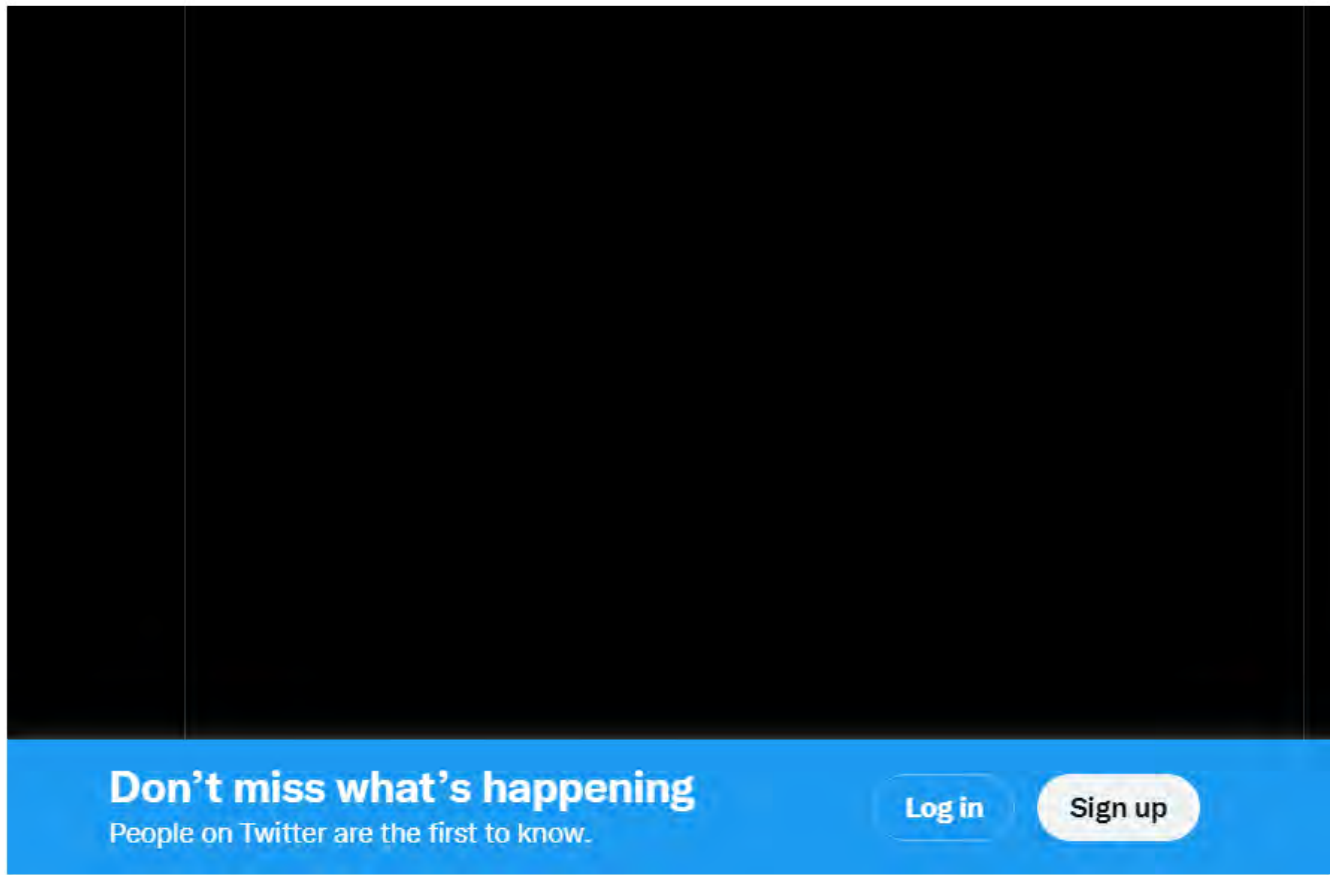
**XRPJU** @xrpju · Jul 25  
Replying to @ryder\_ripps  
Learning everyday from you guys

Show more replies



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# EXHIBIT 30



8/11/22, 11:21 PM

Bored Ape Yacht Club's Creators Declared War on a Vocal Critic. Could it Backfire? - Decrypt

Features • Long Reads

## Bored Ape Yacht Club's Creators Declared War on a Vocal Critic. Could it Backfire?

"Yuga has to win on two sides here," one attorney said. "They have to convince a courtroom, but they also have to convince the public."

By [Sander Lutz](#)

Jul 3, 2022 10 min read



A Bored Ape NFT. Image: Bored Ape Yacht Club



A prominent artist claims that the biggest NFT brand on Earth is secretly run by a conspiracy of Nazi trolls. The artist sold a copycat collection of the brand's NFTs, netting him some \$1.8 million (shared among the four people working on the project). Some called it a clever political statement, others a naked cash grab.

Now the brand is suing the artist, and the implications of the case could be more far-reaching than either party anticipated.

This is the ongoing story of Ryder Ripps, an internet provocateur and conceptual artist who's done work for Nike and Bruno Mars, and of Yuga Labs, the \$4 billion company behind the Bored Ape Yacht Club. When Yuga filed a federal lawsuit against Ripps late last month, the news sent the NFT world into a frenzy—and raised more than a few questions.

Did BAYC's creators really plant racist easter eggs and hidden Nazi symbols in images touted by the likes of Steph Curry, Jimmy Fallon, and Madonna, or was it all an elaborate troll by a famously attention-seeking artist who once falsely claimed to have redesigned the CIA's logo?

What's more, is it a clear case of defamation? And what would a verdict in this case reveal about the still-murky, potentially multi-billion-dollar question of how images associated with NFTs are copyrighted? Also: Can they be copyrighted in the first place?

To legal experts who spoke with Decrypt, the most fascinating element of Yuga's lawsuit is that it has nothing to do with these questions. Yuga isn't suing Ripps for defamation nor for copyright infringement. Instead, the multi-billion dollar company is very narrowly accusing Ripps of infringing on the Bored Ape *trademark*. It may well be that what Yuga *isn't* alleging offers *more* insight into the case and the current state of the NFT industry.



8/11/22, 11:21 PM

Bored Ape Yacht Club's Creators Declared War on a Vocal Critic. Could it Backfire? - Decrypt



#### Laminate This: What to Say to Crypto Haters

They're back. As the crypto bear market worsens, the haters are coming out of the woodwork again to sneer at an industry they've long insisted was nothing more than an overhyped scam. Veteran ...

News • Opinion

Decrypt Staff • Jul 3, 2022

🕒 6 min read



#### The 'million-dollar question'

"That's really important, really kind of unusual, and interesting and unexpected,"

University of Kentucky law professor Brian Fyre told *Decrypt*, speaking about Yuga's choice to wholly avoid the question of copyright infringement in its lawsuit against Ripps.

Copyright and trademark infringement, though often closely associated, are two very different things. Copyrights protect the *content* of a work: the plot of a book, the visual elements of a painting, the chorus of a song. Trademarks, on the other hand, safeguard business names, logos, and slogans that constitute a brand. By not pursuing copyright infringement, Yuga is essentially letting slide the fact that Ripps copied thousands of Bored Ape NFT images and sold them for millions of dollars, without changing a pixel. Why?

"That's the million-dollar question," Zahr Said, associate dean of research at the University of Washington School of Law, told *Decrypt*.

The answer may lie in the current relationship between companies like Yuga and copyright law.

"Many Bored Ape buyers see 'IP ownership' as a big part of the [NFT] value proposition," said Fyre. Indeed, the last year has seen Bored Ape holders attempt to spin NFTs into unique [clothing lines](#), [music groups](#), [burger restaurants](#), and [television shows](#). Yuga Labs encourages this behavior, and that makes sense: The ethos of NFT communities like BAYC hinges on the presumption that NFT holders are not passive consumers, but active community members wielding varying degrees of control over their purchases.

But recent scholarship suggests that such a copyright structure may be legally dead-on-arrival. In a [recent essay](#), artist and lawyer Dave Steiner laid out a compelling case for how, by giving away rights for each Ape upon purchase, Yuga Labs might be left with no rights to any Apes at all, effectively eliminating most of the company's value.

Further, because the 10,000 Bored Apes in circulation are almost identical, and often vary by only a single trait, like an earring, the law likely would grant robust copyrights only to owners of the first handful of Bored Apes ever sold, because those images were, at the time, unique.



Bored Ape #6578, Bored Ape #7065. In Steiner's reading, the newer Ape is just a derivative of the first, not a unique image possessing a full-throated copyright.

In Steiner's interpretation, the law would see every subsequent Bored Ape as some variation of those "originals." For instance, imagine drawing an earring on an image of Mickey Mouse. That's not a brand new mouse with full-throated copyright protection. That's Mickey with an earring. Such a reading of the law would leave the vast majority of Bored Apes, over 99%, effectively worthless in terms of licensing.

Delving into matters of copyright in a courtroom could, therefore, open a Pandora's Box for Yuga. The issue "introduces a lot of complications that I suspect Yuga didn't want to deal with right now," said Fyre.

The same goes for defamation. While Fyre thinks Yuga has more than enough evidence to



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go after Ripps for defamation, “they didn’t, and I think that was a very wise decision.”

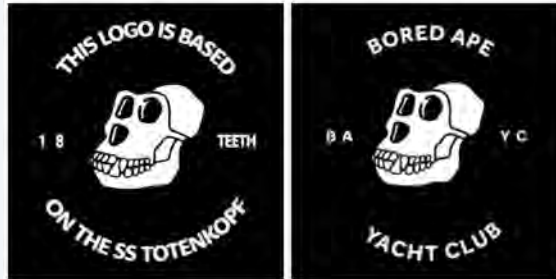
Why? Because in a defamation suit, both sides have access to discovery. Ripps would be granted the legal right to request any number of Yuga’s private correspondences to try and prove his claims that Bored Apes are secretly racist. Even if Ripps is just trolling—and it certainly wouldn’t be the first time—such an opportunity likely would amount to a months-long field day for the artist and his followers, and a never-ending PR nightmare for Yuga.

### Two monkeys walk into an NFT marketplace

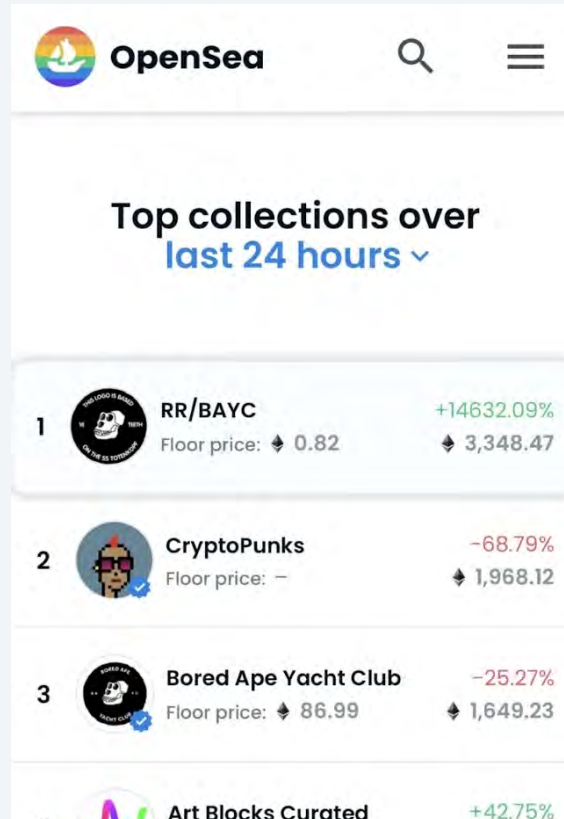
So, if not for copyright infringement and not for defamation, what’s Yuga suing for?

The company’s lawyers—of Fenwick & West, the prominent Silicon Valley firm known for guiding the likes of Facebook, Amazon, Apple, eBay and Oracle through decades of intellectual property disputes—formally alleged on June, [in a suit filed](#) in the U.S. District Court for the District of Central California, only that Ripps infringed on Yuga Labs’ trademarks.

The claim centers on Ripps’ use of the Bored Ape logo and brand. Ripps titled his NFT collection RR/BAYC, promoted an “Ape marketplace” in association with it, and made the collection’s logo a Nazi-inspired riff on the original BAYC logo. Yuga Labs does not yet hold trademarks for the BAYC name and logo, but its applications are pending, permitting it to protect those marks in court.



Ryder Ripps’ RR/BAYC logo; the BAYC logo.



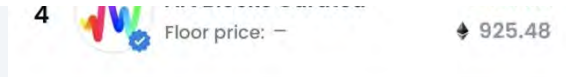
<https://decrypt.co/104366/bored-ape-yacht-clubs-creators-declared-war-on-a-vocal-critic-could-it-backfire>

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8/11/22, 11:21 PM

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RR/BAYC and BAYC displayed last week on NFT marketplace OpenSea.

Yuga's attorneys will have to prove that by invoking these marks, Ripps created a "likelihood of confusion" for consumers, experts told *Decrypt*.

"If I were to go out and try to gin up a project that would tick as many boxes of trademark infringement as possible," said Fyre of Ripps' collection, "I mean, he did a bang-up job."

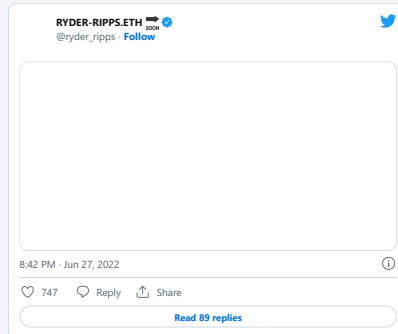
Central to Fyre's point is that Yuga doesn't need to prove that every purchaser of an RR/BAYC NFT was hoodwinked into buying a fake ape when they thought they were getting a bonafide Bored Ape. Yuga just needs to show that the value of Ripps' collection is linked to the value of BAYC.

"You buy a Louis Vuitton knockoff bag for \$10 on Canal Street, you know it's not the real deal, right?" said Fyre. "But the problem is, you're buying it because of the mark."

To other legal experts, the fact that Ripps marketed his collection to vocal critics of BAYC, and associated it so closely with claims of Yuga's alleged racism, could actually work in Ripps' favor.

"If Ryder can define [his] market as a subset that's distinct [...] that would defeat the claim that the defendant's work is usurping the market for the original," explained the University of Washington's Said. Ripps' fans hate BAYC, and BAYC holders hate Ripps, and members of one group would never buy NFTs of the other. "I think if they do that successfully, they're likely off the hook."

Ripps posted a statement about the lawsuit on Twitter a few days ago. When reached by *Decrypt* on Sunday and asked whether he's obtained legal representation, he declined to comment.



### 'Trying to find leverage'

But even Ripps' potential trademark infringement may not be all that it seems.

"My big question is: Was this his plan all along?" Fyre asked. "Did he want them to sue him?"

Is getting sued by a \$4 billion company the apotheosis of Ripps' latest meta-conceptual, ironic attention grab? Or a natural consequence of an earnest crusade against a powerful brand? Whatever the motivation behind Ripps' multi-pronged assault on BAYC, by attempting to quash it with litigation, Yuga Labs may have just exposed itself to another, larger problem.

"Suing is not a very Web3 thing to do," said Yitzy Hammer, partner at DLT Law, a blockchain legal advisory firm.

Bored Ape Yacht Club is not the first NFT brand to deal with copycats. But it is one of the first to get litigious. Lawsuits, let alone ones this prominent, are rare things in the so-called decentralized and community-minded world of NFT art and Web3 culture.

"A lot of collections, Yuga Labs but also others, accept a lot of infringements where IP lawyers will say that's a very clear infringement," said Christian Tenkhoff, a partner at law firm Taylor Wassine who specializes in trademark and Web3. Who? Tenkhoff argues



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law firm Taylor Wessing who specializes in trademarks and Web3, why: Tenkhoff argues that despite the fact that some NFT owners see IP as a major value proposition, many others in the NFT world believe that "IP is something [...] that's old school, that's the old world, that's centralized. And that shouldn't even happen."



### TAG Heuer Wants You to Wear Your Bored Ape on Your Wrist

Even as the winds of another Crypto Winter start to blow, high fashion's investment in crypto continues to heat up. This morning, luxury watchmaker TAG Heuer announced its new Connected Calib...

News • Business

Sander Lutz • Jun 15, 2022

🕒 3 min read



Yuga, up to now, has taken care to not ruffle the feathers of this vocal faction of the tight-knit Web3 community, the goodwill of which NFT collections depend on, even after Ripps began provoking Yuga in [January](#), with the #BURNBAYC hashtag accumulating a sizable following on Twitter, trending the same week of the RR/BAYC collection's sellout.

"Ryder Ripps and his community were really pushing them on the white supremacy thing and the Nazi thing, and also [saying] you can't copy an NFT," said Hammer. "Just kind of like spitting in their face."

So, Ripps' goading may have put Yuga between yet another rock and hard place: continue to let a snowballing faction openly associate their brand with Nazism (during BAYC's most prominent week of the year, [ApeFest](#), no less), or risk breaking a Web3 norm by involving the federal government.

Only on June 24, days after Ripps' collection eclipsed the real BAYC to become the top-selling NFT collection in the world on OpenSea, did Yuga finally sue.

"My gut tells me," said Fyre, "that this lawsuit is more about trying to find leverage to get him to stop trashing their brand than it is any kind of concern about actual trademark infringement issues."

"I think, you know, in many senses," Hammer added, "they just felt like they needed to fight back."



### BlockbusterDAO Hits R3WIND: What's Next After Failing to Buy Nostalgia Brand

ConstitutionDAO fell short of its goal to raise enough money to purchase a copy of the U.S. Constitution at auction, but the effort yielded considerable mainstream attention and showed the wor...

Features • Long Reads

Andrew Hayward • Jul 2, 2022

🕒 8 min read



But whatever the motivation, Yuga now finds itself in federal court, arguing about intellectual property. And that fact alone may have forced the company into another corner.

Yuga Labs was born in the experimental, decentralized world of NFTs, but as it now attempts to assert its dominance in the centralized, real-world economy, it may have to pick a lane.

"As these brands go bigger and bigger, they actually need to enforce their trademarks in order to maintain the value within their brands," said Tenkhoff. "And the tricky part is to get the Web3 space on board and make them see your point."

Whether or not it was Ripps' intention, thanks to the artist's provocations, Yuga Labs may be one of the first major NFT companies to test the balance between honoring the ethos of Web3 and invoking laws to maintain a profitable brand.

"Yuga has to win on two sides here. They have to convince a courtroom, but they also have to convince the public," said Tenkhoff. "It is so very important that you get the Web3, NFT, and Twitter communities behind you."



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NFT Revolution

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NFTs are provably unique crypto tokens that are quickly becoming increasingly popular among digital artists, gaming companies, and investors. Track the NFT revolution here.

Collection

Last updated Aug 10, 2022

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As CryptoPunks NFT Owners Get Commercial Rights, Yuga Hopes to Secure Their 'Legacy as Artwork'

CryptoPunks are iconic in the crypto world, and the project spurred countless imitators as it popularized tokenized NFT profile pictures. But with a new owner in the form of Bored Ape Yacht Club...

News • NFTs

Andrew Hayward • Aug 10, 2022

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Magic Eden Wants to Build an ApeCoin NFT Marketplace Just for Bored Apes—Here's Why

Leading Solana NFT marketplace Magic Eden only announced its entry into the Ethereum market one week ago and already it's gunning to serve the best-known community in the space. Magic Eden today...

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Andrew Hayward • Aug 9, 2022

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Consumer Group Demands Snoop Dogg, Paris Hilton, Other Celebs Disclose NFT Connections

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Jason Nelson • Aug 8, 2022

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# EXHIBIT 31



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Ryder Ripps' RR/BAYC NFTs - Protest Art or Trademark Breach? | The Manual

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# Bored Ape Yacht Club Wants Ryder Ripps to Cease and Desist

Artist Claims RR/BAYC NFTs Educational  
and Satiric

By Matthew Denis

July 14, 2022

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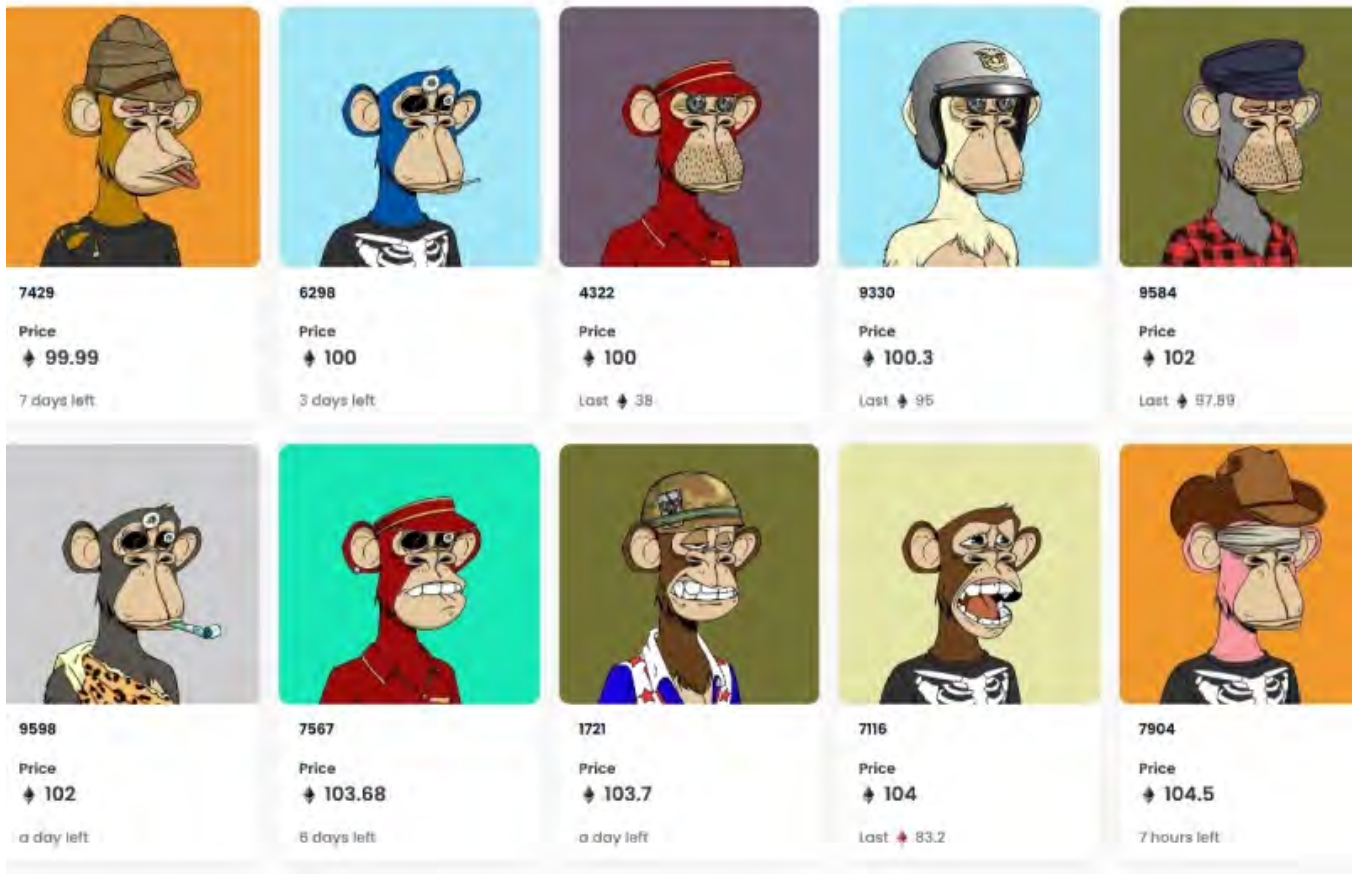
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There's an ongoing dust-up between  
primates in the NFT world.



The fight pits Bored Ape Yacht Club against a defendant group that's headlined by L.A.-based artist Ryder Ripps. A June 24 complaint filed in California federal court by Yuga Labs, maker of the ultra-popular BAYC tokens, claims that Ripps (along with help from Jeremy Cahen, founder of NFT marketplace Not Larva Labs and 10 additional defendants) is "trolling Yuga Labs and scamming consumers into purchasing RR/BAYC NFTs by misusing Yuga Labs' trademarks." The filing claims that Ripps "seeks to devalue the Bored Ape NFTs by flooding the NFT market with his own copycat NFT collection." For Ripps, this is a personal, artistic, and educational mission.





OpenSea

In January, Ripps, who was born Jewish, began posting to his tens of thousands of social media followers about what he claimed to be connections between BAYC visuals and Nazi and white supremacist



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messaging. Ripps pointed out, for example, that the BAYC logo appears to be quite similar to the Nazi Totenkopf emblem. He then compiled his research at [gordongoner.com](https://gordongoner.com) — a site named after the pseudonym (and supposed anagram) of one of BAYC's co-founders.



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The question of whether Yuga Labs founders or BAYC were racist soon became a viral debate and a serious thorn in BAYC's side. Yuga Labs denied, outright, any connections to the extremist imagery.

Moreover, co-CEO Nicole Muniz Input that very idea runs opposite to the sense of community that BAYC wants to foster. She



"It is deeply painful. It's disturbing," she said.

*people into the "Kali Yuga" in online crypto/chan contexts around 2019 often times incorporated the Totenkopf*  
[pic.twitter.com/3kpW1YHAWp](https://pic.twitter.com/3kpW1YHAWp)



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*&mdash; RYDER-RIPPS.ETH*   
(@ryder\_ripps) July 11, 2022

Then, this past May, Ripps exactly aped 550 Bored Ape avatars, first "by hand" and then for sale on NFT platforms.

"If you've been on 4chan, this is just classic trolling," Ripps said to CoinDesk in May. "It's surprising how far they took it."

Yuga Labs didn't see these actions as a joke, but instead, described Ripps as on a "campaign of harassment based on false accusations of racism." In addition to using "the very same marks to promote their



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RR/BAYC NFT collection," Yuga Labs points out that Ripps offered the allegedly infringing NFTs on "the same NFT marketplaces that Yuga Labs uses to sell its Bored Ape NFTs, such as OpenSea," which amounts to "elementary level trademark infringement."

While several of these marketplaces have removed the offending RR/BAYC NFTs, Bored Ape NFTs could probably use this news cycle to prop up what's been a flagging fad. Despite a 22% jump in the club's NFT-linked Ape Coin cryptocurrency at the end of June, the coin is back down to \$4.56/coin, a precipitous drop from reaching almost \$27 in April. Now it's going to have a legal battle




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on its hands because Ripps is not backing down.

Faced with legal action, Ripps responded, "The lawsuit grossly mischaracterizes the RR/BAYC project – people who reserved RR/BAYC NFT understood that their NFT was being minted as a protest against and parody of BAYC." Ripps cites a disclaimer that "they explicitly acknowledged" when purchasing RR/BAYC NFTs.

[pic.twitter.com/buPBbU89I4](https://pic.twitter.com/buPBbU89I4)  
— RYDER-RIPPS.ETH   
(@ryder\_ripps) [June 28, 2022](#)



The artist argues that the RR/BAYC project "uses satire and appropriation to protest and educate people" about BAYC and NFTs. Ripps' legal argument boils down to fair use, which "identifies certain types of uses — such as criticism, comment, news reporting, teaching, scholarship, and research" according to the U.S. Copyright office.

The outcome of this ongoing case will cast an enormous weight over the future fair use of NFTs and digital copyright.

## Editors' Recommendations

- [Why TikTok China Is Watching You and Why the FCC Is Upset](#)



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- How the Satanic Panic Influenced Stranger Things Season 4
- Store, Trade, Sell Your Rare Sports Cards In the eBay Vault
- Parlor Aims to Shape Tomorrow's Borderless Social Club Today
- Click Is on a Mission To Keep Art Alive Through NFT Archives



<https://www.themanager.com/culture/ryder-ripps-vs-bored-ape/>

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10 Attorneys for Plaintiffs  
 YUGA LABS, INC.

11  
 12 UNITED STATES DISTRICT COURT  
 13 CENTRAL DISTRICT OF CALIFORNIA

14 YUGA LABS, INC.,

15 Plaintiff,

16 v.

17 RYDER RIPPS, JEREMY CAHEN,  
 18 and DOES 1-10,

19 Defendants.

Case No.:

**COMPLAINT FOR FALSE  
 DESIGNATION OF ORIGIN, FALSE  
 ADVERTISING, CYBERSQUATTING,  
 TRADEMARK INFRINGEMENT,  
 UNFAIR COMPETITION, UNJUST  
 ENRICHMENT, CONVERSION, AND  
 TORTIOUS INTERFERENCE**

**DEMAND FOR JURY TRIAL**

20  
 21 Plaintiff Yuga Labs, Inc. (“Yuga Labs”) for their Complaint against  
 22 Defendant Ryder Ripps, Jeremy Cahen, and Does 1-10, alleges as follows:

23 **NATURE OF THE CASE**

24 1. Plaintiff Yuga Labs is the creator behind one of the world’s most well-  
 25 known and successful Non-Fungible Token (“NFT”) collections, known as the  
 26 Bored Ape Yacht Club (a.k.a. “BAYC”). The Bored Ape NFTs have earned  
 27 significant attention from the media for their popularity and value, including being  
 28 featured on the cover of a recent edition of *Rolling Stone* magazine and being



1 dubbed “the epitome of coolness for many” by *Forbes*. Bored Ape NFTs often  
2 resell for hundreds of thousands, if not millions, of dollars, and prominent celebrities  
3 are proud holders of Bored Ape NFTs. Aside from certain benefits that come with  
4 being a member of the exclusive community of Bored Ape NFT holders, much of  
5 this NFT collection’s value arises from their rarity – only 10,000 Bored Ape NFTs  
6 exist, and each is entirely unique.

7       2. In response to the Bored Ape Yacht Club’s popularity, Defendant  
8 Ryder Ripps, a self-proclaimed “conceptual artist,” recently began trolling Yuga  
9 Labs and scamming consumers into purchasing RR/BAYC NFTs by misusing Yuga  
10 Labs’ trademarks. He seeks to devalue the Bored Ape NFTs by flooding the NFT  
11 market with his own copycat NFT collection using the original Bored Ape Yacht  
12 Club images and calling his NFTs “RR/BAYC” NFTs. Brazenly, he promotes and  
13 sells these RR/BAYC NFTs using *the very same trademarks* that Yuga Labs uses to  
14 promote and sell authentic Bored Ape Yacht Club NFTs. He also markets these  
15 copycat NFTs as falsely equivalent to an authentic Bored Ape Yacht Club NFT. He  
16 then goes on to use Yuga Labs’ marks to promote his coming “Ape Market” NFT  
17 marketplace, which requires a person to purchase one of his infringing NFTs to join  
18 the Ape Market. This is no mere monkey business. It is a deliberate effort to harm  
19 Yuga Labs at the expense of consumers by sowing confusion about whether these  
20 RR/BAYC NFTs are in some way sponsored, affiliated, or connected to Yuga  
21 Labs’ official Bored Ape Yacht Club, in violation of the Lanham Act and related  
22 state law.

23       3. Ripps’ misuse of Yuga Labs’ trademarks and false advertising of the  
24 RR/BAYC NFTs is not accidental. These actions are calculated, intentional, and  
25 willful with the stated purpose of causing actual and monetary harm to Yuga Labs  
26 and to the holders of authentic Bored Ape Yacht Club NFTs, all of which causes  
27 real harm to Yuga Labs’ goodwill. Meanwhile, Ripps reaps millions of ill-gotten  
28 profit from these sales while celebrating the harm he causes. He and others acting



1 in concert with him have touted and cheered when their deceptions caused a decline  
2 in value to authentic Bored Ape Yacht Club NFTs. And, using his social media  
3 presence, Ripps has targeted Yuga Labs in a campaign of harassment based on false  
4 accusations of racism. These baseless accusations have been used to fuel sales of  
5 the fake RR/BAYC NFTs.

6 4. Yuga Labs brings this action against Ripps and others involved in  
7 perpetrating his scam to dispel the confusion he has caused in the marketplace, to  
8 protect the goodwill in authentic Bored Ape NFTs and the Bored Ape Yacht Club,  
9 to protect members of the NFT community from being deceived into thinking they  
10 are purchasing a highly coveted Bored Ape NFT, and to protect the general public  
11 from deceptive commercialization or use of RR/BAYC NFTs that would lead  
12 consumers to believe those NFTs are official Bored Ape NFTs.

13 5. Ripps claims his actions are “satire,” yet he conveniently rakes in  
14 millions in ill-gotten profit from sales of the RR/BAYC NFTs using Yuga Labs’  
15 marks to make those sales. Copying is not satire, it is theft. And lying to consumers  
16 is not conceptual art, it is deception.

17 6. For these and other reasons, Defendants’ conduct has caused and,  
18 unless enjoined, will continue to cause damages and irreparable injury to Yuga Labs  
19 with an incalculable loss of goodwill. Accordingly, Yuga Labs seeks injunctive  
20 relief and damages under the Lanham Act’s False Designation of Origin and False  
21 Advertising Laws (15 U.S.C. § 1125(a)); federal cybersquatting law (15 U.S.C.  
22 § 1125(d)); unfair competition and false advertising within the meaning of  
23 California Business and Professions Code §§ 17200, 17500 *et seq.*; and the common  
24 law doctrines of trademark infringement, unfair competition, unjust enrichment,  
25 conversion, intentional interference with prospective economic advantage, and  
26 negligent interference with prospective economic advantage.

27 7. In short, Yuga Labs wants Ripps *off* of its marks for good.  
28



## THE PARTIES

8. Plaintiff Yuga Labs, Inc., is a corporation duly organized and existing under the laws of the State of Delaware.

9. Upon information and belief, Defendant Ryder Ripps is an individual whose primary place of residence is in Acton, CA 93510.

10. Upon information and belief, Defendant Jeremy Cahen is an individual whose primary place of residence is in Santa Monica, CA 90402.

11. Upon information and belief, Defendants Does 1-5 are individuals and entities working in active concert with each other, Ripps, and Cahen to infringe Yuga Labs' BORED APE YACHT CLUB, BAYC, BORED APE, APE, BA YC Logo, BA YC BORED APE YACHT CLUB Logo, and Ape Skull Logo trademarks (the "BAYC Marks") and use them to promote and sell RR/BAYC NFTs. The identities of these Doe Defendants are presently unknown to Plaintiff.

12. Upon information and belief, Defendants Does 6-10 are individuals and entities working to knowingly perpetuate the promotion and sale of RR/BAYC NFTs. These Does include (but are not limited to) individuals who buy and resell the RR/BAYC NFTs despite knowing that they are fake, and individuals who request Ripps, Cahen, and Does 1-5 to copy specific, authentic Bored Ape NFTs into RR/BAYC NFTs. The identities of these Doe Defendants are presently unknown to Plaintiff.

## JURISDICTION AND VENUE

13. This Court has personal jurisdiction over Defendants because, on information and belief, the named Defendants, Ripps' and Cahen's primary places of residence are in the State of California and within this judicial district. Likewise, on information and belief, Ripps and Cahen direct and support their infringing activities and unlawful, unfair, and fraudulent business practices from their California residences.







1 acclaimed ApeFest featuring music, merchandise, art, and more. See  
 2 [www.apefest.com](http://www.apefest.com).

3 18. On occasion, more tangible benefits accrue to Bored Ape NFT holders.  
 4 For example, in August 2021, the address associated with each Bored Ape NFT  
 5 holder was provided with the ability to “mutate” their Bored Ape, resulting in an  
 6 entirely new and valuable NFT. Yuga Labs is also developing a first-of-its-kind  
 7 NFT metaverse (“Otherside”) that will tie directly into Bored Ape Yacht Club NFTs.

### 8 THE BORED APE YACHT CLUB’S RECOGNITION

9 19. Since its launch, Yuga Labs’ Bored Ape Yacht Club has generated  
 10 massive public interest, as reflected in media reports:

- 11 • Rolling Stone Magazine published an issue with Bored Ape NFT art  
 12 on the cover, accompanied by an article entitled “How Four NFT  
 13 Novices Created a Billion-Dollar Ecosystem of Cartoon Apes.” The  
 14 article hailed BAYC as “internet rock stars” and described their rise  
 15 to fame and fortune. Samantha Hissong, *How Four NFT Novices*  
 16 *Created a Billion-Dollar Ecosystem of Cartoon Apes*, ROLLING  
 17 STONE (Nov. 1, 2021),  
 18 [https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-](https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-club-nft-interview-1250461/)  
 19 [yacht-club-nft-interview-1250461/](https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-club-nft-interview-1250461/).
- 20 • CNET hailed BAYC as “the biggest NFT project of [its] kind.”  
 21 Daniel Van Boom, *How Bored Ape Yacht Club NFTs Became*  
 22 *\$400K Status Symbols*, CNET (Apr. 28, 2022),  
 23 [https://www.cnet.com/culture/internet/how-bored-ape-yacht-club-](https://www.cnet.com/culture/internet/how-bored-ape-yacht-club-nfts-became-400k-status-symbols/)  
 24 [nfts-became-400k-status-symbols/](https://www.cnet.com/culture/internet/how-bored-ape-yacht-club-nfts-became-400k-status-symbols/).
- 25 • Wired published an article titled: “How Did the Bored Ape Yacht  
 26 Club Get So Popular?” Kate Knibbs, *How Did the Bored Ape Yacht*  
 27 *Club Get So Popular?*, WIRED (Feb. 8, 2022),  
 28 <https://www.wired.com/story/celebrity-nfts/>.

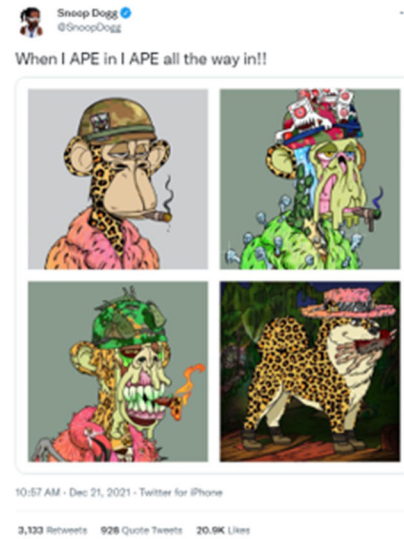


- The New York Times called the Bored Ape Yacht Club a “widely-hyped series of digital collectibles” and a “phenomenon.” David Yaffe-Bellany, *Thefts, Fraud and Lawsuits at the World’s Biggest NFT Marketplace*, THE NEW YORK TIMES (June 6, 2022), <https://www.nytimes.com/2022/06/06/technology/nft-opensea-theft-fraud.html>.

20. The Bored Ape Yacht Club’s popularity is reflected in the value of Bored Ape NFTs. During a 2021 auction at Sotheby’s, 101 Bored Ape NFTs were resold for \$24.4 million. Samantha Hissong, *How Four NFT Novices Created a Billion-Dollar Ecosystem of Cartoon Apes*, ROLLING STONE (Nov. 1, 2021), <https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-club-nft-interview-1250461/>. A Christie’s auction sold an art collection including four Bored Ape NFTs for \$12 million. *Id.* Individual Bored Ape NFTs likewise sell for high prices, including one that went for \$3.4 million. *Id.* As a result of its success, Yuga Labs was valued at \$4 billion in March of 2022, and received \$450 million in seed funding, which it plans to use to develop Otherside. Jacob Kastrenakes, *Bored Ape Yacht Club creator raises \$450 million to build an NFT metaverse*, THE VERGE (Mar. 22, 2022), <https://www.theverge.com/2022/3/22/22991272/yuga-labs-seed-funding-a16z-bored-ape-yacht-club-bayc-metaverse-other-side>.

21. Adding to the BAYC brand’s popularity, major celebrities have publicly announced holding a Bored Ape NFT, including TV host Jimmy Fallon; famous musicians such as Justin Bieber, Madonna, Snoop Dogg, and Eminem; and famous athletes, including Stephen Curry, Serena Williams, and Shaquille O’Neal.





22. Major brands like Adidas, Universal Music Group, and Arizona Iced Tea have worked with Bored Ape Yacht Club to create entertainment experiences, and in the case of Adidas, virtual and physical clothing.





**YUGA LABS' TRADEMARK APPLICATIONS  
AND COMMON LAW TRADEMARK RIGHTS**

23. Yuga Labs has used its BAYC Marks in connection with advertising, marketing, and promoting its products and services nationwide and internationally through multiple platforms, including but not limited to the Bored Ape Yacht Club website; NFT markets such as OpenSea; and social media such as Facebook, Instagram, and Twitter.

24. Yuga Labs has pending trademark applications for registration in BORED APE YACHT CLUB. The applications were filed on May 27, 2021; September 7, 2021; November 15, 2021; November 18, 2021; and March 15, 2022. The applications cover the BORED APE YACHT CLUB mark for “digital collectibles; digital collectibles sold as non-fungible tokens;” “Online social networking services;” “providing an online marketplace; providing an online marketplace for digital assets, digital tokens, crypto-tokens, utility tokens, non-fungible tokens (NFTs), digital collectibles, crypto-collectibles, cryptocurrencies, digital currencies and virtual currencies; providing an online marketplace for buyers and sellers of digital goods authenticated by non-fungible tokens (NFTs);” “providing an online community for buying, selling, trading, and discussing and exchanging information about digital assets, digital tokens, crypto-tokens, utility tokens, non-fungible tokens (NFTs), digital collectibles, crypto-collectibles, cryptocurrencies, digital currencies and virtual currencies;” “non-fungible tokens (NFTs); downloadable art image files authenticated by non-fungible tokens; downloadable computer software in the nature of non-fungible tokens; non-fungible tokens used with blockchain technology, namely, downloadable image and multimedia files containing artwork; downloadable digital art;” and “Non-downloadable virtual goods, namely, non-fungible tokens; non-downloadable virtual goods, namely, a collectible series of non-fungible tokens; non-downloadable virtual goods, namely, a collectible series of images as embodied in non-fungible



1 tokens; non-downloadable virtual goods, namely, non-fungible tokens used with  
2 blockchain technology; non-downloadable virtual goods, namely, non-fungible  
3 tokens used with a distributed ledger; non-downloadable virtual goods, namely,  
4 digital collectible images using non-fungible tokens and blockchain technology;  
5 authentication and certification of data relating to non-fungible tokens via  
6 blockchain,” among others.

7 25. Yuga Labs has pending trademark applications for registration in  
8 BAYC. The applications were filed on July 19, 2021; November 15, 2021;  
9 November 18, 2021; and March 15, 2022. The applications cover the BAYC mark  
10 for “digital collectibles; digital collectibles sold as non-fungible tokens;” “Online  
11 social networking services;” “providing an online marketplace; providing an online  
12 marketplace for digital assets, digital tokens, crypto-tokens, utility tokens,  
13 non-fungible tokens (NFTs), digital collectibles, crypto-collectibles,  
14 cryptocurrencies, digital currencies and virtual currencies; providing an online  
15 marketplace for buyers and sellers of digital goods authenticated by non-fungible  
16 tokens (NFTs);” “providing an online community for buying, selling, trading, and  
17 discussing and exchanging information about digital assets, digital tokens, crypto-  
18 tokens, utility tokens, non-fungible tokens (NFTs), digital collectibles, crypto-  
19 collectibles, cryptocurrencies, digital currencies and virtual currencies;”  
20 “Non-downloadable virtual goods, namely, non-fungible tokens; non-downloadable  
21 virtual goods, namely, a collectible series of non-fungible tokens; non-downloadable  
22 virtual goods, namely, a collectible series of images as embodied in non-fungible  
23 tokens; non-downloadable virtual goods, namely, non-fungible tokens used with  
24 blockchain technology; non-downloadable virtual goods, namely, non-fungible  
25 tokens used with a distributed ledger; non-downloadable virtual goods, namely,  
26 digital collectible images using non-fungible tokens and blockchain technology;  
27 authentication and certification of data relating to non-fungible tokens via  
28 blockchain,” among others.



26. Yuga Labs has pending trademark applications for registration in BORED APE. The applications were filed on August 16, 2021; November 15, 2021; and November 18, 2021. The applications cover the BORED APE mark for “online social networking services;” “non-fungible tokens (NFTs); downloadable art image files authenticated by non-fungible tokens; downloadable computer software in the nature of non-fungible tokens; non-fungible tokens used with blockchain technology, namely, downloadable image and multimedia files containing artwork; downloadable digital art;” and “Non-downloadable virtual goods, namely, non-fungible tokens; non-downloadable virtual goods, namely, a collectible series of non-fungible tokens; non-downloadable virtual goods, namely, a collectible series of images as embodied in non-fungible tokens; non-downloadable virtual goods, namely, non-fungible tokens used with blockchain technology; non-downloadable virtual goods, namely, non-fungible tokens used with a distributed ledger; non-downloadable virtual goods, namely, digital collectible images using non-fungible tokens and blockchain technology; authentication and certification of data relating to non-fungible tokens via blockchain,” among others.

27. Yuga Labs has a pending trademark application for registration in APE. The application was filed on November 3, 2021. The application covers the APE mark for “Design, development, and implementation of software for distributed computing platforms;” and “Providing on-line non-downloadable virtual goods, namely, digital art; providing online digital artwork and images; non-fungible tokens (nfts) or other digital tokens based on blockchain technology,” among others.

28. Yuga Labs has pending trademark applications for registration in the BA YC Logo. The applications were filed on May 27, 2021; September 7, 2021; November 15, 2021; and November 18, 2021. The application covers the BA YC Logo mark for “maintain and record ownership of digital illustrations; maintain and record ownership of digital illustrations represented by non-fungible tokens; providing a website featuring an online marketplace for exchanging digital



collectibles;” “non-fungible tokens (NFTs); downloadable art image files authenticated by non-fungible tokens; downloadable computer software in the nature of non-fungible tokens; non-fungible tokens used with blockchain technology, namely, downloadable image and multimedia files containing artwork; downloadable digital art;” and “Non-downloadable virtual goods, namely, non-fungible tokens; non-downloadable virtual goods, namely, a collectible series of non-fungible tokens; non-downloadable virtual goods, namely, a collectible series of images as embodied in non-fungible tokens; non-downloadable virtual goods, namely, non-fungible tokens used with blockchain technology; non-downloadable virtual goods, namely, non-fungible tokens used with a distributed ledger; non-downloadable virtual goods, namely, digital collectible images using non-fungible tokens and blockchain technology; authentication and certification of data relating to non-fungible tokens via blockchain,” among others.

29. Yuga Labs has pending trademark applications for registration in the BA YC BORED APE YACHT CLUB Logo. The applications were filed on May 27, 2021; September 7, 2021; November 15, 2021; and November 18, 2021. The applications cover the BA YC Bored APE Yacht Club Logo mark for “maintain and record ownership of digital illustrations; maintain and record ownership of digital illustrations represented by non-fungible tokens; providing a website featuring an online marketplace for exchanging digital collectibles;” “non-fungible tokens (NFTs); downloadable art image files authenticated by non-fungible tokens; downloadable computer software in the nature of non-fungible tokens; non-fungible tokens used with blockchain technology, namely, downloadable image and multimedia files containing artwork; downloadable digital art;” and “Non-downloadable virtual goods, namely, non-fungible tokens; non-downloadable virtual goods, namely, a collectible series of non-fungible tokens; non-downloadable virtual goods, namely, a collectible series of images as embodied in non-fungible tokens; non-downloadable virtual goods, namely, non-fungible tokens used with



1 blockchain technology; non-downloadable virtual goods, namely, non-fungible  
2 tokens used with a distributed ledger; non-downloadable virtual goods, namely,  
3 digital collectible images using non-fungible tokens and blockchain technology;  
4 authentication and certification of data relating to non-fungible tokens via  
5 blockchain,” among others.

6 30. Yuga Labs has pending trademark applications for registration in the  
7 Ape Skull Logo. The applications were filed on August 26, 2021; September 7,  
8 2021; November 15, 2021; and November 18, 2021. The applications cover the  
9 BAYC mark for “digital collectibles; digital collectibles sold as non-fungible  
10 tokens;” “Online social networking services;” “non-fungible tokens (NFTs);  
11 downloadable art image files authenticated by non-fungible tokens; downloadable  
12 computer software in the nature of non-fungible tokens; non-fungible tokens used  
13 with blockchain technology, namely, downloadable image and multimedia files  
14 containing artwork; downloadable digital art;” and “Non-downloadable virtual  
15 goods, namely, non-fungible tokens; non-downloadable virtual goods, namely, a  
16 collectible series of non-fungible tokens; non-downloadable virtual goods, namely, a  
17 collectible series of images as embodied in non-fungible tokens; non-downloadable  
18 virtual goods, namely, non-fungible tokens used with blockchain technology;  
19 non-downloadable virtual goods, namely, non-fungible tokens used with a  
20 distributed ledger; non-downloadable virtual goods, namely, digital collectible  
21 images using non-fungible tokens and blockchain technology; authentication and  
22 certification of data relating to non-fungible tokens via blockchain,” among others.

23 31. Since at least April 2021, Yuga Labs has used its BAYC Marks. They  
24 have been used for its logo, website, social media pages, marketing, and in  
25 connection with its partnerships, products and services. A true and correct copy of  
26 examples of their use are attached hereto as Exhibit A.

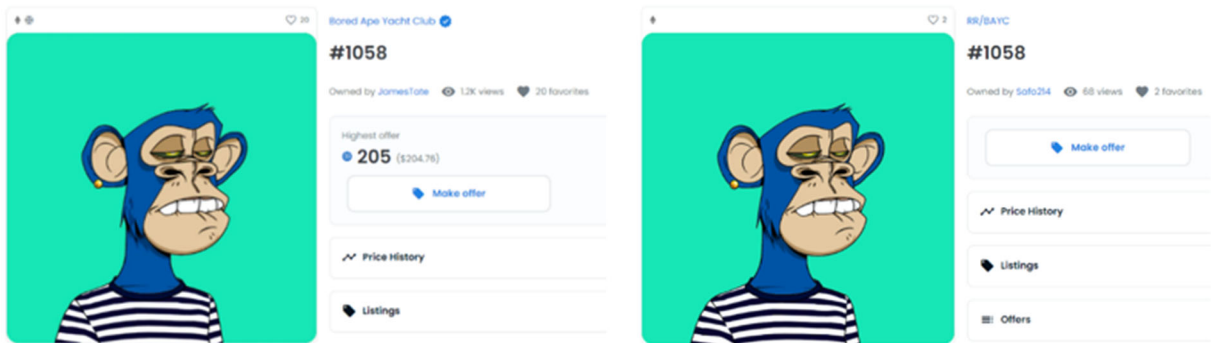
27 32. As a consequence of the advertising, promotion, and use of these marks,  
28 Yuga Labs has developed recognition for its goods and services under the BAYC



Marks, and has acquired and enjoys significant goodwill for the BAYC Marks.

## DEFENDANTS' INFRINGEMENT OF THE BAYC MARKS

33. Yuga Labs uses the trademarks BORED APE YACHT CLUB, BAYC, BORED APE, APE, BA YC Logo, BA YC BORED APE YACHT CLUB Logo, and the Ape Skull Logo, on a nationwide and international basis to identify its well-known Bored Ape NFT collection. Defendants Ripps, Cahen, and Does 1-5 use *the very same marks* to promote their RR/BAYC NFT collection. Worse still, they attempt to sell these RR/BAYC NFTs on the same NFT marketplaces that Yuga Labs uses to sell its Bored Ape NFTs, such as OpenSea. This is elementary level trademark infringement: Ripps, Cahen, and Does 1-5 are selling the same or related products, in the same place, under the same marks. For example, the images below are both taken from the NFT marketplace OpenSea.<sup>1</sup> The NFT on the left is an official Bored Ape Yacht Club NFT, which is identical to the copycat Ryder Ripps Bored Ape Yacht Club NFT on the right. They even have the same name (#1058).



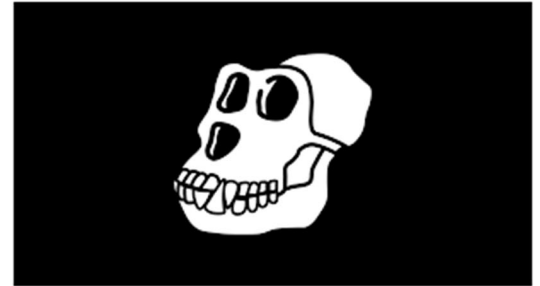
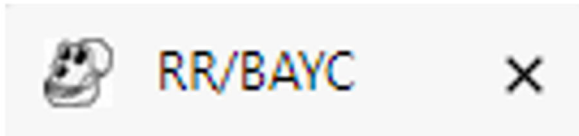
Yuga Labs will not allow Ripps, Cahen, and Does 1-5 to continue to profit off of Yuga Labs' hard work and goodwill. Nor will Yuga Labs allow Ripps, Cahen, and Does 1-5 to continue to mislead the community about the source of the fake NFTs.

34. As just a few examples of Ripps, Cahen, and Does 1-5's infringement, Yuga Labs believes, and therefore alleges, that in May 2022, Ripps, Cahen, and Does 1-5 created a website that allows users to "reserve" RR/BAYC NFTs, which

<sup>1</sup> At the time this Complaint was filed, the page displaying this RR/BAYC NFT had been removed.



they then mint. The domain for this website is <https://rrbayc.com/>. This website uses Yuga Labs' BAYC trademark in the title of the page ("RR/BAYC"), in the browser tab for the page ("RR/BAYC"), and in the domain for the page (<https://rrbayc.com/>). The website also uses Yuga Labs' Ape Skull Logo mark (right) in the browser tab icon (left [image enlarged to show detail]):



The NFTs depicted on the website also contain BAYC Marks. For example, RR/BAYC #362 has the BAYC, BA YC Logo, and the Ape Skull Logo marks on its hat and RR/BAYC #863 has the Ape Skull Logo mark on its shirt. Both of these fake NFTs are identical to their official BAYC counterparts BAYC #362 and BAYC #863.



35. Next, Yuga Labs believes, and therefore alleges, that Ripps, Cahen, and Does 1-5 created sales pages on OpenSea to sell their RR/BAYC NFTs. The first OpenSea page used Yuga Labs' BAYC trademark in the title of the page, in the cover photo of the page, and in the page URL (<https://opensea.io/collection/ryder-ripps-bayc>). As of the filing of this Complaint, this page is no longer accessible on

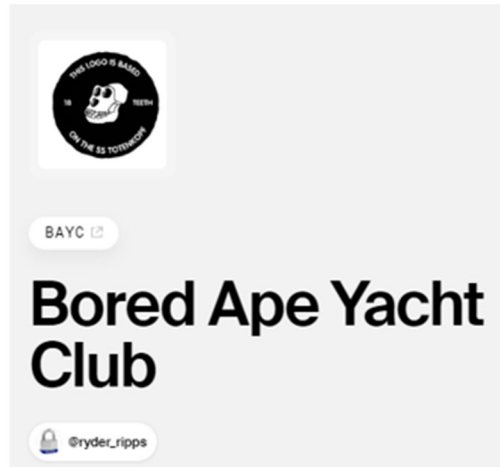


1 OpenSea. On information and belief, OpenSea removed this page.

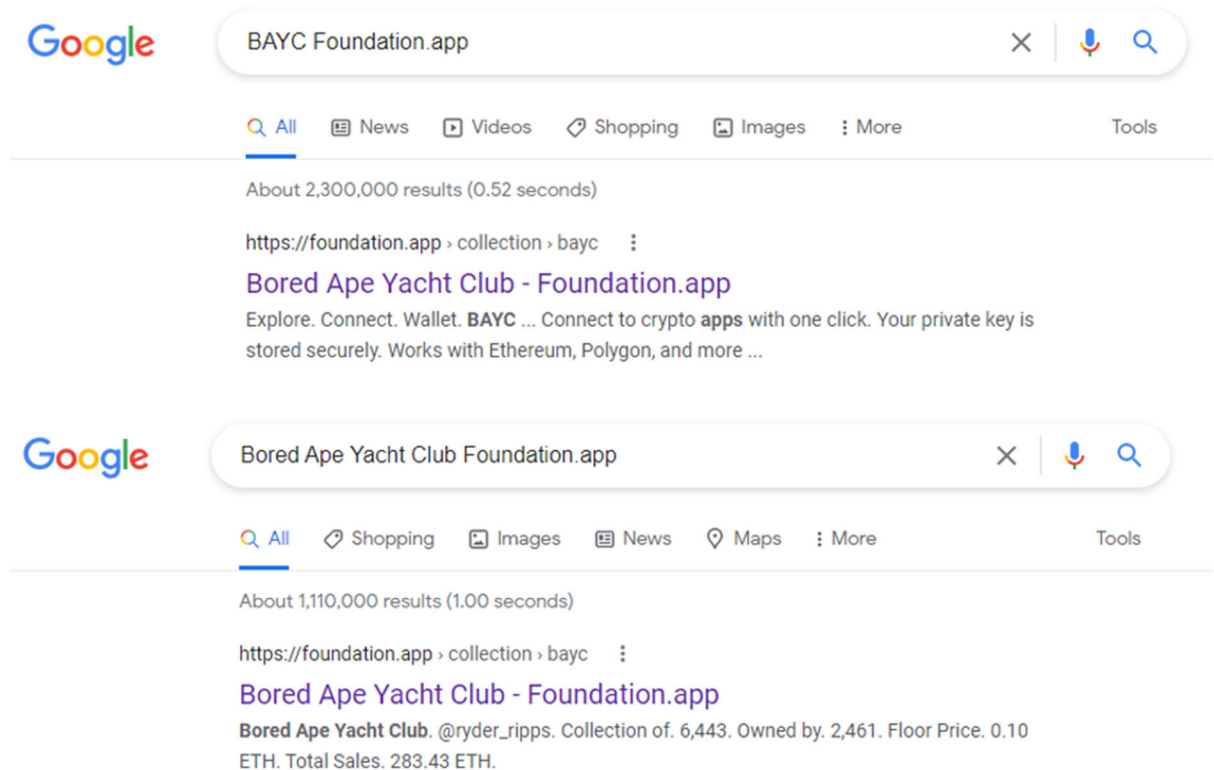
2 36. Immediately after this page was removed, a subsequent sales page  
3 was posted to the OpenSea platform under a new name. This page likewise used  
4 Yuga Labs' BAYC trademark in the title of the page ("RR/BAYC"), in the cover  
5 photo of the page (an image stating "RRBAYC.com"), and in the URL of the page  
6 (<https://opensea.io/collection/rrbayc>). The RR/BAYC NFTs depicted on the  
7 website also contained the BAYC, BA YC Logo, and Ape Skull Logo marks (see  
8 above). And this page used the distorted and falsified BA YC BORED APE  
9 YACHT CLUB Logo mark, including the Ape Skull Logo mark, as part of its  
10 profile picture. Each of these uses was intended to mislead and confuse community  
11 members into buying a fake NFT from Ripps rather than an official Yuga Labs  
12 Bored Ape Yacht Club NFT. As of the filing of this Complaint, this page is no  
13 longer accessible on OpenSea. On information and belief, OpenSea removed this  
14 page. On information and belief, Ripps, Cahen, and Does 1-5 have bragged and  
15 falsely touted publicly that they have "won" five takedown requests "against"  
16 OpenSea and have indicated that they intend to continue to post their infringing  
17 webpages and offer for sale their infringing NFTs on the OpenSea marketplace.

18 37. Continuing their scheme, Yuga Labs believes, and therefore alleges, that  
19 Ripps, Cahen, and Does 1-5 created a sales page on Foundation, another NFT  
20 marketplace, to sell RR/BAYC NFTs. As of the filing of this Complaint, this page is  
21 no longer accessible on Foundation. On information and belief, Foundation removed  
22 this page. This page prominently and confusingly used Yuga Labs' BORED APE  
23 YACHT CLUB trademark as the title of the page:





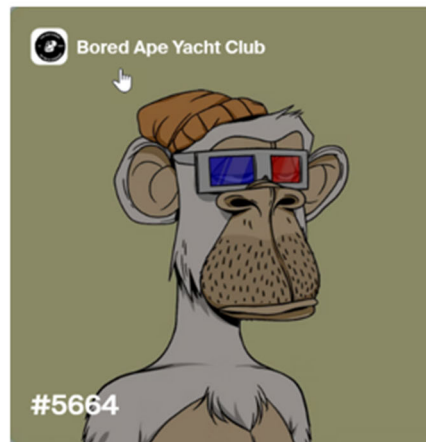
It also used Yuga Labs' BAYC trademark in an unauthorized hyperlink labeled "BAYC" and in the URL of the page (<https://foundation.app/collection/bayc>). And nothing about the URL indicated that it redirected to the RR/BAYC NFT collection, as opposed to the official BAYC NFT collection. Indeed, even the top result in a Google search for "BAYC Foundation.app" or "Bored Ape Yacht Club Foundation.app" was a misleading link titled "Bored Ape Yacht Club – Foundation.app" that redirected to the fake RR/BAYC NFT collection.





Like their OpenSea page, Ripps, Cahen, and Does 1-5's Foundation page was also deliberately misleading and confusing to consumers and used Yuga Labs' BAYC marks in an attempt to trick community members into buying their NFTs instead of the official BAYC NFTs.

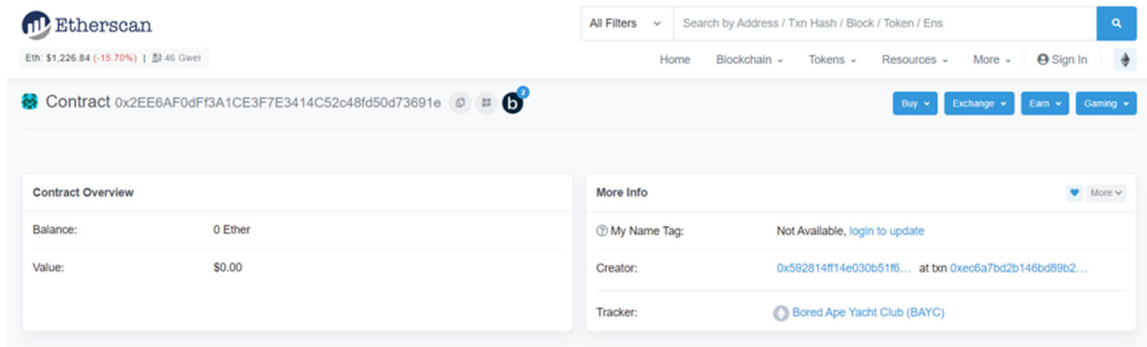
38. Even more, when a user hovered over the RR/BAYC NFTs on Ripps, Cahen, and Does 1-5's Foundation page, the page displayed a miniature version of their warped BA YC BORED APE YACHT CLUB Logo mark. At such a small size, it is difficult for a consumer to tell the difference between the official Bored Ape Yacht Club logo, and Ripps, Cahen, and Does 1-5's infringing logo. Next to this image were the words "Bored Ape Yacht Club", further stealing the BORED APE YACHT CLUB trademark.



And once again, the fake RR/BAYC NFTs depicted for sale on the website contained the BAYC, BA YC Logo, and Ape Skull Logo marks.

39. The Foundation page's unauthorized BAYC hyperlink re-routed to the Etherscan page: <https://etherscan.io/address/0x2EE6AF0dFf3A1CE3F7E3414C52c48fd50d73691e> for Defendants' RR/BAYC collection, which publicly tracks sales and other information for these NFTs. Yuga Labs believes, and therefore alleges, that Ripps, Cahen, and Does 1-5 stole Yuga Labs' BORED APE YACHT CLUB and BAYC trademarks to misleadingly label the token tracker for these RR/BAYC NFTs as "Bored Ape Yacht Club (BAYC)" (see bottom right corner of image below).





40. Token trackers are important for validating the authenticity of an NFT. And when future buyers of Ripps, Cahen, and Does 1-5's fake NFTs review the token tracker and contract information for the RR/BAYC NFT, they will be misled into thinking that these NFTs were officially sold by Yuga Labs. Indeed Ripps has gloated that it is consumers' own fault for being confused by his fake NFTs, even though Ripps' actions lay bare that he welcomes the confusion.

41. While the OpenSea and Foundation pages described above were taken down, there is no guarantee that Ripps, Cahen, and Does 1-5 will not try, once again, to create new infringing pages. They also continue to use Yuga Labs' marks to promote their RR/BAYC apes on other NFT marketplaces.

42. Still not done with their lazy infringement, Ripps, Cahen, and Does 1-5 promote their RR/BAYC NFTs on a Twitter page named "RYDER RIPPS Bored Ape Yacht Club" (@RR\_BAYC). In a May 28, 2022 tweet, this page claims to have made almost 200,000 "tweet impressions," meaning its tweets were seen that many times over a period of two weeks. This Twitter page uses Yuga Labs' BORED APE YACHT CLUB trademark in the name of the page and Yuga Labs' BAYC trademark in the Twitter handle. Moreover, the profile picture for this page is an exact copy of Yuga Labs' Ape Skull Logo trademark, which is also used on the official BAYC Twitter page. Further adding to the confusion, the header photo for this Twitter page is identical to the header photo on BAYC's official Twitter page, and uses Yuga Labs' BAYC and Ape Skull Logo trademarks.





Ripps, Cahen, and Does 1-5's persistent use of Yuga Labs' marks, logos, and branding can have only one plausible purpose: to trade on Yuga Labs' goodwill and confuse consumers.

43. Ripps also promotes his RR/BAYC NFTs on his Twitter page named "RYDER-RIPPS.ETH" (@ryder\_ripss). The header photo for this page contains an image that uses Yuga Labs' BAYC, BA YC Logo, and Ape Skull Logo trademarks (see bottom right corner of image below).



44. On information and belief, Ripps, Cahen, and Does 1-5 created yet another Twitter page which was designed to closely mimic the official Bored Ape Yacht Club page. This page is expressly created to sell their copycat RR/BAYC NFTs. The Twitter handle for this page (@BoredApeV3) is very similar to the official page's @BoredApeYC handle, and infringes Yuga Labs' BORED APE



trademark. This page also rips off the official Bored Ape Yacht Club Twitter page's name, profile picture, and header photo, infringing Yuga Labs' Ape Skull Logo and BORED APE YACHT CLUB marks. The page copies language from the official Bored Ape Yacht Club Twitter page ("buy a Bored Ape") to describe the copycat page. Even the location ("The Swamp") is the same as the official Bored Ape Yacht Club Twitter page.



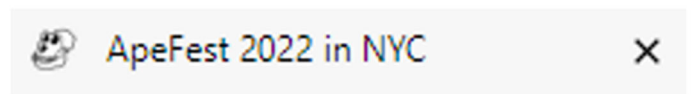
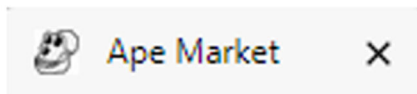
45. Ripps, Cahen, and Does 1-5's copycat account doesn't stop there. The tweets themselves are designed to look as though they originate from the official Bored Ape Yacht Club page. For example, this account tweeted a picture of Yuga Labs' advertising for ApeFest (left) and retweeted a post in which the original tweeter tagged the official Bored Ape Yacht Club (right). Using the Bored Ape Yacht Club name, these posts show as coming *from* "Bored Ape Yacht Club." The tweets themselves and the use of the infringing handle are intended to confuse Twitter users into thinking this is the official Bored Ape Yacht Club account.





All of this confusion is intended to funnel Twitter users looking for the official Bored Ape Yacht Club page to Ripps, Cahen, and Does 1-5's online pages where they promote and sell the infringing NFTs. In this case, imitation is the sincerest form of trickery, and Ripps, Cahen, and Does 1-5 should not be allowed to use Yuga Labs' trademarks while fooling users into buying their infringing products.

46. Finally, Ripps, Cahen, and Does 1-5 promote their RR/BAYC NFTs on a Twitter page named "Ape Market" (@ApeMarketplace). This page uses Yuga Labs' APE trademark in the name of the page and the Twitter handle. This page also links to <https://apemarket.com/>, which includes Yuga Labs' APE trademark in the URL. The Ape Market website also uses Yuga Labs' Ape Skull Logo mark in



the browser tab icon (left), which is nearly identical to the browser tab icon Yuga Labs uses for its ApeFest website (right). Remarkably, a June 2, 2022 post on this Twitter account claims that "ApeMarket and RR/BAYC are registered trademarks." This statement is false – Ape Market has not even filed, let alone registered, these



1 infringing marks. This is just another attempt by Ripps, Cahen, and Does 1-5 to  
2 deceive consumers into thinking they are legitimate, when in reality they are running  
3 a scam.

4 47. Throughout this parade of lies, Ripps, Cahen, and Does 1-5 do not  
5 distinguish their use of Yuga Labs' BAYC Marks from the identical look, sound,  
6 and commercial impression of Ripps, Cahen, and Does 1-5's use of these marks.  
7 Their use of these marks to promote and sell their RR/BAYC NFTs is likely to  
8 cause confusion and mislead consumers into thinking the RR/BAYC NFTs are in  
9 some way sponsored, affiliated, or connected with Yuga Labs' Bored Ape Yacht  
10 Club. Yuga Labs believes, and therefore alleges, that Ripps, Cahen, and Does 1-5  
11 purposefully, intentionally, and with malice used Yuga Labs' trademarks to confuse  
12 users into purchasing RR/BAYC NFTs.

13 **DEFENDANTS' MISUSE OF PLAINTIFF'S TRADEMARKS**  
14 **IS PART OF A SCHEME TO HARASS YUGA LABS, MISLEAD**  
15 **CONSUMERS, AND UNJUSTLY ENRICH THEMSELVES.**

16 48. Ripps, Cahen, and Does 1-5's website (<https://rrbayc.com>) claims that  
17 minting exact replicas of Yuga Labs' Bored Ape NFTs and reselling them at a profit  
18 is "satire." In reality, this is part of a longstanding harassment campaign against  
19 Yuga Labs and an attempt to devalue the price of authentic Bored Ape NFTs. At the  
20 same time, Ripps, Cahen, and Does 1-5 stand to make millions of dollars by tricking  
21 consumers into buying these fake Bored Ape NFTs. Indeed, on information and  
22 belief, Ripps has made well over \$5 million through this scheme of pumping and  
23 dumping fake NFTs

24 49. Since early 2022, Ripps has harassed and personally attacked Yuga  
25 Labs and its founders through baseless accusations of racism over social media  
26 networks like Twitter and Instagram.

27 50. Ripps also conducted an interview with a popular meme page, to spread  
28 this misinformation. He effectively doxxed Yuga Labs' founders by providing their



1 personal identities to a well-known media, news, and entertainment publication,  
2 which subsequently published this information.

3 51. Ripps' lies have been widely discredited, but they have nonetheless  
4 reached a significant number of people on social media, including his over 50,000  
5 Instagram followers and over 15,000 Twitter followers.

6 52. Since May 2022, Ripps' campaign has turned towards minting NFTs  
7 that use the original Bored Ape Yacht Club art and promoting them using Yuga  
8 Labs' trademarks, as described above. He uses every opportunity to make these  
9 RR/BAYC NFTs resemble the authentic Bored Ape NFTs as closely as possible to  
10 confuse consumers into buying them. For example, Yuga Labs' original Bored Ape  
11 NFTs were assigned a unique number. Individuals request new RR/BAYC NFTs  
12 by referring to this same Yuga Labs-known number. Indeed, even though Ripps  
13 mints his fake RR/BAYC NFTs out of order, he still names them with the same  
14 number as the identical authentic Bored Ape NFT. The @RR\_BAYC Twitter  
15 account even admits that "RR/BAYC" does not sufficiently distinguish Ripps'  
16 RR/BAYC NFTs from the official Bored Ape NFTs:



RYDER RIPPS Bored Ape Yacht Club  
@RR\_BAYC

...

I am glad to say SOME people will never know what  
RR/BAYC stands for no matter how hard we try.

10:53 AM · May 28, 2022 · Twitter Web App

21 53. Aside from the confusing associations with Yuga Labs' trademarks,  
22 Defendants' Twitter accounts repeatedly misrepresent the nature of the RR/BAYC  
23 NFTs. For example, Defendants equate buying a RR/BAYC NFT with buying an  
24 official BAYC NFT. However, the holder of an authentic Bored Ape NFT has  
25 commercial rights to the associated digital art that are not acquired by the purchaser  
26 of a RR/BAYC NFT. Moreover, the RR/BAYC NFTs do not offer the same  
27 exclusive access to the Bored Ape Yacht Club and other services that authentic  
28 Bored Ape NFTs offer, nor do they carry the same value.





54. Indeed, the RR/BAYC NFTs are so similar to BAYC's NFTs and confusing to consumers that OpenSea has repeatedly delisted them in response to complaints. Yet, Ripps, Cahen, and Does 1-5 continue to list them. Cahen (known by his Twitter handle "@Pauly0x") even bragged about how many times the NFTs have been delisted.

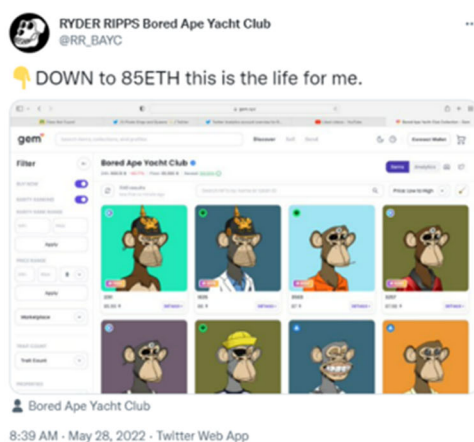


55. Ripps, Cahen, and Does 1-5 have also announced the imminent launch of an entire NFT marketplace called "Ape Market" solely to sell their RR/BAYC NFTs alongside authentic Yuga Labs NFTs. Here again, Ripps, Cahen, and Does 1-5 are



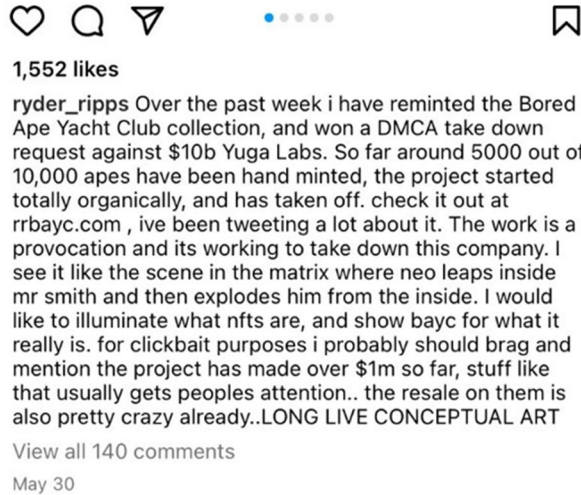
1 using Yuga Labs' trademarks, including APE, to market and sell their infringing  
 2 products and service. Specifically, in order to join the Ape Market, users must first  
 3 purchase one of Ripp's, Cahen, and Does 1-5's infringing RR/BAYC NFTs. The  
 4 creators claim that Ape Market will allow users to buy and sell official Bored Ape  
 5 NFTs while bypassing Yuga Labs' creator fees and the customary royalties paid  
 6 through NFT marketplaces like OpenSea.

7 56. Ripp's, Cahen, and Does 1-5 promote these RR/BAYC NFTs in an  
 8 attempt to flood the NFT market with Bored Ape lookalikes and decrease the value of  
 9 authentic Bored Ape NFTs and harm Yuga Labs. As an example of this, the  
 10 @RR\_BAYC Twitter account frequently and publicly competes with Yuga Labs on  
 11 Twitter, implying that they sell the RR/BAYC NFTs in part to "say[] fuck you" to  
 12 Yuga Labs.



21 57. Ripp's' scam at the expense of Yuga Labs and the larger Bored Ape  
 22 community has been extremely profitable. In a May 30, 2022 Instagram post,  
 23 Ripp's stated that he has made "over \$1m so far" just from this NFT project and has  
 24 described the resale profits as "pretty crazy already." He even describes his scheme  
 25 as a "provocation . . . to take down [Yuga Labs]." According to this post, as well as  
 26 Ripp's, Cahen, and Does 1-5's Foundation site, Ripp's has created knock-off (but  
 27 identical) versions of the art in over half of all 10,000 official Bored Ape NFTs.





58. Ripps, Cahen, and Does 1-5 have sold the fake Bored Ape NFTs to more than 1,000 purchasers. They have also bragged about and taken responsibility for flooding the NFT market with their RR/BAYC NFTs with the intended effect of devaluing the communities' authentic Bored Ape NFTs and sowing confusion about which NFT is actually an authentic Bored Ape NFT.

59. Defendants Does 6-10 are individuals who have purchased RR/BAYC NFTs from Ripps, Cahen, and Does 1-5, knowing them to be fake, and have thereafter promoted and represented their NFTs to be authentic or equivalent to Bored Ape NFTs even though RR/BAYC NFTs do not carry the same rights and permissions as authentic Bored Ape NFTs. Defendants Does 6-10 do this to harm Yuga Labs and depress the value of authentic Bored Ape NFTs. They perpetuate Ripps, Cahen, and Does 1-5's deception by promoting the RR/BAYC NFTs through social media networks and otherwise. Defendants Does 6-10 have joined Ripps, Cahen, and Does 1-5 in acting to devalue authentic Bored Ape NFTs through their participation in social media in promoting the RR/BAYC NFTs while knowing them to be fake. Their specific actions will be alleged when and if their identities are ascertained.



**FIRST CAUSE OF ACTION**  
**FALSE DESIGNATION OF ORIGIN**  
**(15 U.S.C. § 1125(A))**  
**(Against All Defendants)**

60. Yuga Labs incorporates all paragraphs above by reference.

61. Yuga Labs is the owner of common law rights in the BAYC Marks that precede Ripps, Cahen, and Does 1-5's first use of these marks.

62. On information and belief, Ripps manages, controls, and directs the promotion and sale of the infringing and misleading RR/BAYC NFTs, including by supporting, aiding, and abetting Cahen and Does 1-5.

63. Ripps, Cahen, and Does 1-5 have not obtained a license or permission from Yuga Labs to use the BAYC Marks.

64. Ripps, Cahen, and Does 1-5's unauthorized use of the BAYC Marks falsely suggests that Ripps, Cahen, and Does 1-5 and their products and services are connected with, sponsored by, affiliated with, or related to Yuga Labs. Does 6-10 perpetuated this by promoting and reselling the RR/BAYC NFTs.

65. Ripps, Cahen, and Does 1-5's unauthorized use of the BAYC Marks, and Ripps, Cahen, and Does 1-10's unauthorized promotion and sale of the RR/BAYC NFTs was willful and intentional and constitutes (a) false designation of origin, (b) false or misleading description, and (c) false or misleading representation that products originate from or are authorized by Yuga Labs, all in violation of 15 U.S.C. § 1125(a)(1)(A).

66. Ripps, Cahen, and Does 1-10 are Plaintiff's competitors in the market for NFTs.

67. As a direct and proximate result of Ripps, Cahen, and Does 1-10's conduct, Yuga Labs has suffered and will continue to suffer damages in an amount to be determined at trial.

68. Yuga Labs has been, is now, and will be irreparably injured and



1 damaged by Ripps, Cahen, and Does 1-10's aforementioned acts, and unless  
2 enjoined by the Court, Yuga Labs will suffer further harm to its name, reputation and  
3 goodwill. This harm constitutes an injury for which Yuga Labs has no adequate  
4 remedy at law.

## 5 SECOND CAUSE OF ACTION

### 6 FALSE ADVERTISING

#### 7 (15 U.S.C. § 1125(A))

#### 8 (Against Defendants Ripps, Cahen, And Does 1-5)

9 69. Yuga Labs incorporates all paragraphs above by reference.

10 70. On information and belief, Ripps manages, controls, and directs the  
11 promotion and sale of the infringing and misleading RR/BAYC NFTs, and the false  
12 and misleading implied factual claims in the advertising related thereto, including  
13 by supporting, aiding, and abetting Cahen and Does 1-5.

14 71. Ripps, Cahen, and Does 1-5 are Plaintiff's competitors in the market  
15 for NFTs.

16 72. Ripps, Cahen, and Does 1-5 also make the false and misleading implied  
17 factual claim in their advertising that their RR/BAYC NFTs are equivalent to  
18 authentic Bored Ape NFTs. For instance, they advertised in interstate commerce that  
19 "To CLARIFY... how the website <http://rrbayc.com> works. You reserve an ape  
20 which you can choose. @ryder\_ripps will then mint it for you when he is able to.  
21 Then it will get transferred to your wallet Then you can say fuck off to  
22 @BoredApeYC!" Similarly, Ripps, Cahen, and Does 1-5 advertised their copycat  
23 "Ryder Ripps Bored Ape Yacht Club" as equivalent to the authentic Bored Ape  
24 Yacht Club: "Looking at @ApeMarketplace and saying fuck you to @BoredApeYC  
25 who's with me?"

26 73. Ripps, Cahen, and Does 1-5's advertising of the quality of the  
27 RR/BAYC NFTs is likely to deceive consumers of NFTs about the material  
28 qualities of RR/BAYC NFTs. In particular, reasonable consumers are likely to



1 believe that if they hold one of the RR/BAYC NFTs they will have access to the  
2 authentic Bored Ape Yacht Club (they will not), that they own rights to the  
3 underlying art (they do not), or that they will have access to exclusive launches by  
4 Yuga Labs for holders of authentic Bored Ape NFTs (they will not).

5 74. Ripps, Cahen, and Does 1-5's conduct constitutes intentional and willful  
6 false statements in connection with goods and/or services distributed in interstate  
7 commerce in violation of 15 U.S.C. § 1125(a)(1)(B).

8 75. As a direct and proximate result of Ripps, Cahen, and Does 1-5's  
9 conduct, Yuga Labs has suffered and will continue to suffer damages in an amount  
10 to be determined at trial.

11 76. Yuga Labs has been, is now, and will be irreparably injured and damaged  
12 by Ripps, Cahen, and Does 1-5's aforementioned acts, and unless enjoined by the  
13 Court, Yuga Labs will suffer further harm to its name, reputation and goodwill. This  
14 harm constitutes an injury for which Yuga Labs has no adequate remedy at law.

### 15 **THIRD CAUSE OF ACTION**

#### 16 **CYBERSQUATTING**

#### 17 **(15 U.S.C. § 1125(D))**

#### 18 **(Against Defendants Ripps, Cahen, And Does 1-5)**

19 77. Yuga Labs incorporates all paragraphs above by reference.

20 78. On information and belief, Ripps manages, controls, and directs the  
21 promotion and sale of the infringing and misleading RR/BAYC NFTs, and the  
22 intentional and bad faith use and registration of the infringing domains, including  
23 by supporting, aiding, and abetting Cahen and Does 1-5.

24 79. Yuga Labs is the owner of common law rights in BAYC and APE that  
25 precede Ripps, Cahen, and Does 1-5's first use of these marks.

26 80. Ripps, Cahen, and Does 1-5 have not obtained a license or permission  
27 from Yuga Labs to use the BAYC and APE marks.  
28



1           81. Ripps, Cahen, and Does 1-5 registered and used the domain names  
2           <https://rrbayc.com/> and <https://apemarket.com/> (“Domain Names”), which are  
3           confusingly similar to Yuga Labs’ BAYC and APE marks.

4           82. Ripps, Cahen, and Does 1-5 registered and used the Domain Names  
5           with a bad faith intent to profit from their confusing similarity to Plaintiff’s BAYC  
6           and APE marks. Among other things, upon information and belief:

- 7                   (a) Ripps, Cahen, and Does 1-5 registered the Domain Names,  
8                   despite knowing that they had no rights in the BAYC or APE  
9                   marks.
- 10                  (b) Ripps, Cahen, and Does 1-5 made no bona fide, non-infringing,  
11                  commercial use or fair non-commercial use of the Domain  
12                  Names.
- 13                  (c) Ripps, Cahen, and Does 1-5 intended to divert consumers looking  
14                  for Plaintiff’s goods/services online to the websites bearing the  
15                  Domain Names by exploiting the confusing similarity of the  
16                  Domain Names and the BAYC and APE marks for their  
17                  commercial gain and to tarnish or disparage the BAYC and APE  
18                  marks.
- 19                  (d) Ripps, Cahen, and Does 1-5 registered and used the Domain  
20                  Names in bad faith as described herein.

21           83. As a direct and proximate result of Ripps, Cahen, and Does 1-5’s  
22           conduct, Yuga Labs has suffered and will continue to suffer damages in an amount to  
23           be determined at trial.

24           84. Ripps, Cahen, and Does 1-5’s conduct is directly and proximately  
25           causing substantial, immediate, and irreparable harm and injury to Yuga Labs, and  
26           to its goodwill and reputation, and will continue to damage Yuga Labs unless  
27           enjoined by this court. Yuga Labs has no adequate remedy at law.

28



1 85. Yuga Labs is entitled to injunctive relief pursuant to 15 U.S.C. §§ 1116  
2 and 1125(d)(1)(C), including, among other injunctive relief, cancellation of Ripps,  
3 Cahen, and Does 1-5's registration of the Domain Names or transfer of the domains  
4 to Yuga Labs.

5 **FOURTH CAUSE OF ACTION**  
6 **COMMON LAW TRADEMARK INFRINGEMENT**  
7 **(Against All Defendants)**

8 86. Yuga Labs incorporates all paragraphs above by reference.

9 87. Yuga Labs owns and has valid common law rights in its BAYC Marks.

10 88. On information and belief, Ripps manages, controls, and directs the  
11 promotion and sale of the infringing and misleading RR/BAYC NFTs, including by  
12 supporting, aiding, and abetting Cahen and Does 1-5.

13 89. Ripps, Cahen, and Does 1-10's use of the BAYC Marks infringes upon  
14 Yuga Labs' common law trade mark.

15 90. Ripps, Cahen, and Does 1-5's use of the BAYC Marks is likely to  
16 cause confusion, mistake, and deception among consumers and the public as to the  
17 source, origin, sponsorship, affiliation, nature and/or quality of Yuga Labs' services  
18 and commercial activities, thereby causing loss, damage, and injury to Yuga Labs  
19 and to the purchasing public. Does 6-10 perpetuated this by promoting the  
20 RR/BAYC NFTs using these marks.

21 91. Ripps, Cahen, and Does 1-10's unauthorized use of the BAYC Marks  
22 is also likely to cause consumers to be confused as to the source, nature, and quality  
23 of the services Ripps, Cahen, and Does 1-10 are promoting or selling.

24 92. Ripps, Cahen, and Does 1-10's unauthorized use of the BAYC Marks  
25 in connection with the sale of its services allows, and will continue to allow, Ripps,  
26 Cahen, and Does 1-10 to receive the benefit of the goodwill established at the labor  
27 and expense of Yuga Labs and to gain acceptance of Ripps, Cahen, and Does 1-10's  
28



1 goods and services, not based on the merits of those goods and services, but on  
2 Yuga Labs' reputation and goodwill.

3 93. Ripps, Cahen, and Does 1-10's unauthorized use of the BAYC Marks  
4 in connection with the sale of its goods and services deprives Yuga Labs of the  
5 ability to control the consumer perception of the quality of the goods and services  
6 marketed under the BAYC Marks, and places Yuga Labs' valuable reputation and  
7 goodwill in the hands of Ripps, Cahen, and Does 1-10, over which Yuga Labs has  
8 no control.

9 94. As a direct and proximate result of Ripps, Cahen, and Does 1-10's  
10 violations of Yuga Labs' common law trademark rights, Yuga Labs has suffered  
11 and will continue to suffer damages in an amount that Yuga Labs will prove at trial.

12 95. As a direct and proximate result of Ripps, Cahen, and Does 1-10's  
13 violations of Yuga Labs' common law trademark rights, these Defendants have  
14 been unjustly enriched in an amount not yet ascertained. Accordingly, Yuga Labs  
15 is entitled to recover restitution for Ripps, Cahen, and Does 1-10's unjust  
16 enrichment in an amount to be determined at trial.

17 96. Ripps, Cahen, and Does 1-10 acted with oppression, fraud, or malice in  
18 their trademark infringement entitling Yuga Labs to an award of punitive damages.

19 97. Yuga Labs has been, is now, and will be irreparably injured and  
20 damaged by Ripps, Cahen, and Does 1-10's aforementioned acts, and unless  
21 enjoined by the Court, Yuga Labs will suffer further harm to its name, reputation and  
22 goodwill. This harm constitutes an injury for which Yuga Labs has no adequate  
23 remedy at law.

24 98. Yuga Labs is entitled to a judgment enjoining and restraining Ripps,  
25 Cahen, and Does 1-10 from engaging in further trademark infringement.



**FIFTH CAUSE OF ACTION**  
**COMMON LAW UNFAIR COMPETITION**  
**(Against All Defendants)**

99. Yuga Labs incorporates all paragraphs above by reference.

100. On information and belief, Ripps manages, controls, and directs the promotion and sale of the infringing and misleading RR/BAYC NFTs, including by supporting, aiding, and abetting Cahen and Does 1-5.

101. Ripps, Cahen, and Does 1-5's unauthorized use of the BAYC Marks is likely to cause confusion, mistake, and deception among consumers and the public as to the source, origin, sponsorship, affiliation, nature and/or quality of Yuga Labs' services and commercial activities, thereby causing loss, damage, and injury to Yuga Labs and to the purchasing public and constitutes unfair competition in violation of the common law. Does 6-10 perpetuated this by promoting and reselling the RR/BAYC NFTs.

102. As a direct and proximate result of Ripps, Cahen, and Does 1-10's conduct, Yuga Labs has suffered and will continue to suffer damages in an amount to be determined at trial.

103. Ripps, Cahen, and Does 1-10 acted with oppression, fraud, or malice in their unfair competition entitling Yuga Labs to an award of punitive damages.

104. Yuga Labs has been, is now, and will be irreparably injured and damaged by Ripps, Cahen, and Does 1-10's aforementioned acts, and unless enjoined by the Court, Yuga Labs will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Yuga Labs has no adequate remedy at law.

105. Yuga Labs is entitled to a judgment enjoining and restraining Ripps, Cahen, and Does 1-10 from engaging in further unfair competition.



**SIXTH CAUSE OF ACTION**  
**UNFAIR COMPETITION**  
**(CAL. BUS. & PROF. CODE §§ 17200 *ET SEQ.*)**  
**(Against All Defendants)**

106. Yuga Labs incorporates all paragraphs above by reference.

107. On information and belief, Ripps manages, controls, and directs the promotion and sale of the infringing and misleading RR/BAYC NFTs, including by supporting, aiding, and abetting Cahen and Does 1-5.

108. Ripps, Cahen, and Does 1-5's unauthorized use of the BAYC Marks is likely to cause confusion, mistake, and deception among consumers and the public as to the source, origin, sponsorship, affiliation, nature and/or quality of Yuga Labs' services and commercial activities, thereby causing loss, damage, and injury to Yuga Labs and to the purchasing public. Defendants Does 6-10 perpetuated this by promoting and reselling the RR/BAYC NFTs.

109. Ripps, Cahen, and Does 1-10's unauthorized use of the BAYC Marks and Ripps, Cahen, and Does 1-10's unauthorized promotion and sale of these NFTs constitutes unfair competition, including unlawful, unfair, and fraudulent business practices in violation of California Business and Professions Code §§ 17200 et seq. and of Yuga Labs' rights.

110. As a direct and proximate result of Ripps, Cahen, and Does 1-10's conduct, Yuga Labs has suffered and will continue to suffer damages in an amount to be determined at trial.

111. Yuga Labs has been, is now, and will be irreparably injured and damaged by Ripps, Cahen, and Does 1-10's aforementioned acts, and unless enjoined by the Court, Yuga Labs will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Yuga Labs has no adequate remedy at law. Ripps, Cahen, and Does 1-10 acted with oppression, fraud, or malice in their unfair competition entitling Yuga Labs to an award of punitive damages.



112. Yuga Labs is entitled to a judgment enjoining and restraining Ripps, Cahen, and Does 1-10 from engaging in further unfair competition.

## SEVENTH CAUSE OF ACTION

### FALSE ADVERTISING

(CAL. BUS. & PROF. CODE §§ 17500 *ET SEQ.*)

(Against Defendants Ripps, Cahen, And Does 1-5)

113. Yuga Labs incorporates all paragraphs above by reference.

114. On information and belief, Ripps manages, controls, and directs the promotion and sale of the infringing and misleading RR/BAYC NFTs, including by supporting, aiding, and abetting Cahen and Does 1-5.

115. Ripps, Cahen, and Does 1-5 are Plaintiff's competitors in market for NFTs.

116. Ripps, Cahen, and Does 1-5 also make the false and misleading implied factual claim in their advertising that their RR/BAYC NFTs are equivalent to authentic Bored Ape NFTs. For instance, they advertised that "To CLARIFY... how the website <http://rrbayc.com> works. You reserve an ape which you can choose. @ryder\_ripps will then mint it for you when he is able to. Then it will get transferred to your wallet Then you can say fuck off to @BoredApeYC!" Similarly, Ripps, Cahen, and Does 1-5 advertised their copycat "Ryder Ripps Bored Ape Yacht Club" as equivalent to the authentic Bored Ape Yacht Club: "Looking at @ApeMarketplace and saying fuck you to @BoredApeYC who's with me?"

117. Ripps, Cahen, and Does 1-5's advertising of the quality of the RR/BAYC NFTs is likely to deceive consumers of NFTs about the material qualities of Defendants' NFTs. In particular, reasonable consumers are likely to believe that if they hold one of the RR/BAYC NFTs they will have access to the authentic Bored Ape Yacht Club (they will not), that they own rights to the underlying art (they do not), or that they will have access to exclusive launches by Yuga Labs for holders of authentic Bored Ape NFTs (they will not).



118. Ripps, Cahen, and Does 1-5 knew or should have known that the representations they made regarding RR/BAYC NFTs and Ape Market were false or misleading at the time it made them.

119. Ripps, Cahen, and Does 1-5 intended to induce reliance on the false or misleading representations because they intended to attract potential customers to purchase its RR/BAYC NFTs and use its Ape market platform.

120. As a direct and proximate result of Ripps, Cahen, and Does 1-5's conduct, Yuga Labs has suffered and will continue to suffer damages in an amount to be determined at trial.

121. Ripps, Cahen, and Does 1-5's conduct constitutes willful false or misleading statements in violation of Cal. Bus. & Prof. code §§ 17500 *et seq.* Ripps, Cahen, and Does 1-5 acted with oppression, fraud, or malice in their false advertising entitling Yuga Labs to an award of punitive damages.

122. Yuga Labs has been, is now, and will be irreparably injured and damaged by Ripps, Cahen, and Does 1-5's aforementioned acts, and unless enjoined by the Court, Yuga Labs will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Yuga Labs has no adequate remedy at law.

## **EIGHTH CAUSE OF ACTION**

### **UNJUST ENRICHMENT**

#### **(Against All Defendants)**

123. Yuga Labs incorporates all paragraphs above by reference.

124. Yuga Labs is not in a contractual relationship with any Defendants.

125. On information and belief, Ripps manages, controls, and directs the promotion and sale of the infringing and misleading RR/BAYC NFTs, including by supporting, aiding, and abetting Cahen and Does 1-5.

126. Ripps, Cahen, and Does 1-5 used Yuga Labs' BAYC Marks without authorization, and as a result obtained money or property through their misconduct that rightly belongs to Yuga Labs. In doing so, they have deprived Yuga Labs of



1 that money or property. Likewise, Does 6-10 perpetuated this by reselling the  
 2 RR/BAYC NFTs, and as a result obtained money or property through their  
 3 misconduct that rightly belongs to Yuga Labs. In doing so, they have deprived Yuga  
 4 Labs of that money or property.

5 127. As a result of Ripps, Cahen, and Does 1-10's unauthorized use of these  
 6 marks, they have unjustly enriched themselves at Yuga Labs' expense.

7 128. As a direct and proximate result of Ripps, Cahen, and Does 1-10's  
 8 conduct, Yuga Labs has suffered and will continue to suffer damages in an amount  
 9 to be determined at trial.

10 129. It would be against equity and good conscience to permit Ripps, Cahen,  
 11 and Does 1-10 to retain the benefit of this misconduct.

## 12 **NINTH CAUSE OF ACTION**

### 13 **CONVERSION**

#### 14 **(Against Defendants Ripps, Cahen, And Does 1-5)**

15 130. Yuga Labs incorporates all paragraphs above by reference.

16 131. On information and belief, Ripps manages, controls, and directs the  
 17 promotion and sale of the infringing and misleading RR/BAYC NFTs, including by  
 18 supporting, aiding, and abetting Cahen and Does 1-5.

19 132. Yuga Labs owns and has valid common law rights in its BAYC Marks.

20 133. Ripps, Cahen, and Does 1-5 substantially interfered with Yuga Labs'  
 21 ownership and rights in these marks by knowingly or intentionally using them to  
 22 promote their own RR/BAYC NFTs.

23 134. Yuga Labs did not consent to Ripps, Cahen, and Does 1-5's use of  
 24 these marks.

25 135. As a direct and proximate result of Ripps, Cahen, and Does 1-5's  
 26 conduct, Yuga Labs has suffered and will continue to suffer damages in an amount  
 27 to be determined at trial.

28 136. Yuga Labs has been, is now, and will be irreparably injured and



1 damaged by Ripps, Cahen, and Does 1-5's aforementioned acts, and unless enjoined  
 2 by the Court, Yuga Labs will suffer further harm to its name, reputation and  
 3 goodwill. This harm constitutes an injury for which Yuga Labs has no adequate  
 4 remedy at law.

5 137. Yuga Labs is entitled to a judgment enjoining and restraining Ripps,  
 6 Cahen, and Does 1-5 from engaging in further conversion of the BAYC Marks.

7 138. Ripps, Cahen, and Does 1-5 acted with oppression, fraud, or malice in  
 8 converting Yuga Labs' trademarks entitling Yuga Labs to an award of punitive  
 9 damages.

10 **TENTH CAUSE OF ACTION**  
 11 **INTENTIONAL INTERFERENCE WITH**  
 12 **PROSPECTIVE ECONOMIC ADVANTAGE**  
 13 **(Against All Defendants)**

14 139. Yuga Labs incorporates all paragraphs above by reference.

15 140. On information and belief, Ripps manages, controls, and directs the  
 16 promotion and sale of the infringing and misleading RR/BAYC NFTs, including by  
 17 supporting, aiding, and abetting Cahen and Does 1-5.

18 141. An economic relationship existed between Yuga Labs and individuals  
 19 who have purchased Bored Ape NFTs.

20 142. These economic relationships carried a probability of an economic  
 21 benefit to Yuga Labs in that prior purchasers would be likely to purchase and/or  
 22 resell additional Yuga Labs products, whereby Yuga Labs may earn a creator fee as  
 23 a percentage of the total sale.

24 143. Ripps, Cahen, and Does 1-10 have knowledge of these economic  
 25 relationships.

26 144. Ripps, Cahen, and Does 1-10 intentionally sought to interfere with  
 27 these relationships by, *inter alia*, (a) appropriating Yuga Labs' trademarks,  
 28 (b) engaging in unfair competition, (c) engaging in false advertising, and/or



(d) offering a competing fake product to devalue Yuga Labs' authentic Bored Ape NFTs and the goodwill associated with them. Ripps, Cahen, and Does 1-10 knew that interference with the relationship between Yuga Labs and individuals who have purchased or were interested in purchasing an authentic Bored Ape NFT was certain or substantially certain to occur as a result of Ripps, Cahen, and Does 1-10's wrongful conduct.

145. Actual interference with the relationship between Yuga Labs and individuals who have purchased or might purchase Bored Ape NFTs occurred in that prior purchasers of Bored Apes "dumped" Yuga Labs NFTs in favor of Ripps, Cahen, and Does 1-10's RR/BAYC NFTs, driving down the resale price of Bored Ape NFTs.

146. As a direct and proximate result of Ripps, Cahen, and Does 1-10's conduct, Yuga Labs has suffered and will continue to suffer damages in an amount to be determined at trial.

147. Yuga Labs has been, is now, and will be irreparably injured and damaged by Ripps, Cahen, and Does 1-10's aforementioned acts, and unless enjoined by the Court, Yuga Labs will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Yuga Labs has no adequate remedy at law.

148. Yuga Labs is entitled to a judgment enjoining and restraining Ripps, Cahen, and Does 1-10 from engaging in further interference with its prospective economic relations.

149. Ripps, Cahen, and Does 1-10 acted with oppression, fraud, or malice in their interference with Yuga Labs' prospective economic advantage entitling Yuga Labs to an award of punitive damages.



**ELEVENTH CAUSE OF ACTION**  
**NEGLIGENT INTERFERENCE WITH**  
**PROSPECTIVE ECONOMIC ADVANTAGE**  
**(Against All Defendants)**

150. Yuga Labs incorporates all paragraphs above by reference.

151. On information and belief, Ripps manages, controls, and directs the promotion and sale of the infringing and misleading RR/BAYC NFTs, including by supporting, aiding, and abetting Cahen and Does 1-5.

152. An economic relationship existed between Yuga Labs and individuals who have purchased Bored Ape NFTs.

153. These economic relationships carried a probability of an economic benefit to Yuga Labs in that prior purchasers would be likely to purchase and/or resell additional Yuga Labs products, whereby Yuga Labs may earn a creator fee as a percentage of the total sale.

154. Ripps, Cahen, and Does 1-10 knew or should have known of these economic relationships.

155. Ripps, Cahen, and Does 1-10 knew or should have known that these relationships would be disrupted if they failed to act with reasonable care.

156. Ripps, Cahen, and Does 1-10 failed to act with reasonable care and engaged in wrongful conduct by, *inter alia*, (a) appropriating Yuga Labs' trademarks, (b) engaging in unfair competition, (c) engaging in false advertising, and/or (d) offering a competing fake product to devalue Yuga Labs' authentic Bored Ape NFTs and the goodwill associated with them.

157. Actual interference with the relationship between Yuga Labs and individuals who have purchased or might purchase authentic Bored Ape NFTs occurred in that prior purchasers of Bored Apes "dumped" Yuga Labs' NFTs in favor of Ripps, Cahen, and Does 1-10's RR/BAYC NFTs, driving down the resale price of Bored Ape NFTs.



158. As a direct and proximate result of Ripps, Cahen, and Does 1-10's conduct, Yuga Labs has suffered and will continue to suffer damages in an amount to be determined at trial.

159. Yuga Labs has been, is now, and will be irreparably injured and damaged by Ripps, Cahen, and Does 1-10's aforementioned acts, and unless enjoined by the Court, Yuga Labs will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Yuga Labs has no adequate remedy at law.

160. Yuga Labs is entitled to a judgment enjoining and restraining Ripps, Cahen, and Does 1-10 from engaging in further interference with its prospective economic relations.

161. Ripps, Cahen, and Does 1-10 acted with oppression, fraud, or malice in their interference with Yuga Labs' prospective economic advantage entitling Yuga Labs to an award of punitive damages.

### **PRAYER FOR RELIEF**

WHEREFORE, Yuga Labs prays for relief as follows:

1. Entry of an order and judgment requiring that Defendants and their officers, agents, servants, employees, owners and representatives, and all other persons, firms or corporations in active concert or participation with it, be preliminarily and permanently enjoined and restrained from (a) using in any manner the BAYC Marks, or any name, mark or domain name that wholly incorporates the BAYC Marks or is confusingly similar to or a colorable imitation of these marks; and (b) doing any act or thing calculated or likely to cause confusion or mistake in the minds of members of the public, or prospective customers of Yuga Labs' products or services, as to the source of the products or services offered for sale, distributed, or sold, or likely to deceive members of the public, or prospective customers, into believing that there is some connection between Defendants and Yuga Labs;



2. A judgment ordering Defendants, pursuant to 15 U.S.C. § 1116(a), to file with this Court and serve upon Yuga Labs within thirty (30) days after entry of the injunction, a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with the injunction and ceased all offering of services under the BAYC Marks as set forth above;

3. A judgment ordering Defendants, pursuant to 15 U.S.C. § 1118, to deliver up for destruction, or to show proof of said destruction or sufficient modification to eliminate the infringing matter, all articles, packages, wrappers, products, displays, labels, signs, vehicle displays or signs, circulars, kits, packaging, letterhead, business cards, promotional items, clothing, literature, sales aids, receptacles, servers, social media accounts, or other matter in the possession, custody, or under the control of Defendants or their agents bearing the BAYC Marks in any manner, or any mark that is confusingly similar to or a colorable imitation of this mark;

4. A judgment ordering Defendants to withdraw any applications Defendants filed anywhere for the BAYC Marks;

5. A judgment in the amount of Yuga Labs' actual damages, Defendants' profits, Yuga Labs' reasonable attorneys' fees and costs of suit, and pre-judgment interest pursuant to 15 U.S.C. § 1117;

6. A judgment for enhanced damages under 15 U.S.C. § 1117 and punitive damages under state law as appropriate; and

7. Any and all equitable relief that may be available to Yuga Labs, including without limitation restitution, disgorgement, and the imposition of a constructive trust.

8. A judgment granting Yuga Labs such other and further relief as the Court deems just and proper.



1 Dated: June 24, 2022

FENWICK & WEST LLP

2  
3 By: /s/ Eric Ball

4 Eric Ball

5 Attorneys for Plaintiff

6 Yuga Labs, Inc.

7  
8 **JURY DEMAND**

9 Plaintiff Yuga Labs, Inc. hereby requests a trial by jury.

10 Dated: June 24, 2022

FENWICK & WEST LLP

11  
12 By: /s/ Eric Ball

13 Eric Ball

14 Attorneys for Plaintiff

15 Yuga Labs, Inc.

FENWICK & WEST LLP



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13 Attorneys for Defendants  
14 *Ryder Ripps and Jeremy Cahen*

15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**  
17 **WESTERN DIVISION**  
18

19  
20 Yuga Labs, Inc.,

21  
22 Plaintiff,

23 v.

24 Ryder Ripps, Jeremy Cahen, Does 1-10,

25  
26 Defendants.  
27  
28

Case No. 2:22-cv-04355-JFW-JEM

**NOTICE OF APPEAL**



PLEASE TAKE NOTICE that Ryder Ripps and Jeremy Cahen, Defendants in the above named case, hereby appeal to the United States Court of Appeals for the Ninth Circuit for the Court's December 16, 2022, order denying Defendants' anti-SLAPP motion. Pursuant to Ninth Circuit Rule 3-2, attached is a Representation Statement that identifies all parties to the action, along with the names, addresses, and telephone numbers of their respective counsel.

Dated: December 21, 2022

By: /s/ Louis W. Tompros

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Attorneys for Defendants  
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## REPRESENTATION STATEMENT

The undersigned represents Defendants Ryder Ripps and Jeremy Cahen. Pursuant to Rule 12(b) of the Federal Rules of Appellate Procedure and Circuit Rule 3-2(b), Defendants-Appellants submit this Representation Statement. The following list identifies all parties to the action and it identifies their respective counsel by name, firm, address, telephone number, and email, where appropriate.

PARTIES	COUNSEL OF RECORD
Defendants-Appellants Ryder Ripps and Jeremy Cahen	Louis W. Tompros (pro hac vice) louis.tompros@wilmerhale.com Monica Grewal (pro hac vice) monica.grewal@wilmerhale.com Scott W. Bertulli (pro hac vice) scott.bertulli@wilmerhale.com WILMER CUTLER PICKERING HALE AND DORR LLP 60 State Street Boston, MA 02109 Telephone: (617) 526-6000 Fax: (617) 526-5000  Derek Gosma (SBN 274515) derek.gosma@wilmerhale.com Henry Nikogosyan (SBN 326277) henry.nikogosyan@wilmerhale.com WILMER CUTLER PICKERING HALE AND DORR LLP 350 South Grand Ave., Suite 2400 Los Angeles, CA 90071 Telephone: (213) 443-5300 Fax: (213) 443-5400
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Dated: December 21, 2022

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Attorneys for Defendants  
*Ryder Ripps and Jeremy Cahen*



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served on all attorneys of record via the Court's ECF system on December 21, 2022.

By: /s/ Louis W. Tompros

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ACCO,(JEMx),AO120,APPEAL,DISCOVERY,MANADR,PROTORD  
**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA (Western Division – Los Angeles)**  
**CIVIL DOCKET FOR CASE #: 2:22-cv-04355-JFW-JEM**

Yuga Labs, Inc. v. Ripps et al  
Assigned to: Judge John F. Walter  
Referred to: Magistrate Judge John E. McDermott  
Case in other court: Ninth Circuit Court, 22-56199  
Cause: 15:1114 Trademark Infringement

Date Filed: 06/24/2022  
Jury Demand: Plaintiff  
Nature of Suit: 840 Trademark  
Jurisdiction: Federal Question

Date Filed	#	Docket Text
06/24/2022	<u>1</u>	COMPLAINT, [Filing Fee PAID \$402 on 6/27/2022 Receipt No. ACACDC-33527966 filed by Plaintiff Yuga Labs, Inc.. (Attachments: # <u>1</u> Exhibit A) (Attorney Eric J Ball added to party Yuga Labs, Inc.(pty:pla))(Ball, Eric) Modified on 6/27/2022 (et). (Entered: 06/24/2022)
06/24/2022	<u>2</u>	CIVIL COVER SHEET filed by Plaintiff Yuga Labs, Inc.. (Ball, Eric) (Entered: 06/24/2022)
06/24/2022	<u>3</u>	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening) <u>1</u> filed by Plaintiff Yuga Labs, Inc.. (Ball, Eric) (Entered: 06/24/2022)
06/24/2022	<u>4</u>	Request for Clerk to Issue Summons on Complaint (Attorney Civil Case Opening) <u>1</u> filed by Plaintiff Yuga Labs, Inc.. (Ball, Eric) (Entered: 06/24/2022)
06/24/2022	<u>5</u>	<i>Corporate Disclosure Statement and NOTICE</i> of Interested Parties filed by Plaintiff Yuga Labs, Inc., (Ball, Eric) (Entered: 06/24/2022)
06/24/2022	<u>6</u>	REPORT ON THE FILING OF AN ACTION Regarding a Patent or a Trademark (Initial Notification) filed by Yuga Labs, Inc.. (Ball, Eric) (Entered: 06/24/2022)
06/27/2022		FILING FEE PAID for new civil case. Receipt No. ACACDC-33527966 for \$402 filing fee. (Ball, Eric) (Entered: 06/27/2022)
06/27/2022	<u>7</u>	NOTICE OF ASSIGNMENT to District Judge Christina A. Snyder and Magistrate Judge John E. McDermott. (et) (Entered: 06/27/2022)
06/27/2022	<u>8</u>	NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed. (et) (Entered: 06/27/2022)
06/27/2022	<u>9</u>	Notice to Counsel Re Consent to Proceed Before a United States Magistrate Judge. (et) (Entered: 06/27/2022)
06/27/2022	<u>10</u>	21 DAY Summons Issued re Complaint (Attorney Civil Case Opening) <u>1</u> as to Defendant Ryder Ripps. (et) (Entered: 06/27/2022)
06/27/2022	<u>11</u>	21 DAY Summons Issued re Complaint (Attorney Civil Case Opening) <u>1</u> as to Defendant Jeremy Cahen. (et) (Entered: 06/27/2022)
06/29/2022	<u>12</u>	NOTICE of Appearance filed by attorney Ethan Michael Thomas on behalf of Plaintiff Yuga Labs, Inc. (Attorney Ethan Michael Thomas added to party Yuga Labs, Inc.(pty:pla))(Thomas, Ethan) (Entered: 06/29/2022)
06/29/2022	<u>13</u>	ORDER RETURNING CASE FOR REASSIGNMENT by Judge Christina A. Snyder. ORDER case returned to the Clerk for random reassignment pursuant to General Order 21-01. Case randomly reassigned from Judge Christina A. Snyder to Judge John F. Walter for all further proceedings. The case number will now reflect the initials of the transferee Judge 2:22-cv-04355 JFW(JEMx). (rn) (Entered: 06/29/2022)
06/30/2022	<u>14</u>	STANDING ORDER by Judge John F. Walter. READ THIS ORDER CAREFULLY. IT CONTROLS THE CASE AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES. This action has been assigned to the calendar of Judge John F. Walter. (iv) (Entered: 06/30/2022)



07/05/2022	<u>15</u>	DECLARATION of Eric Ball re Initial Order upon Filing of Complaint – form only <u>14</u> [Plaintiff Yuga Labs, Inc.'s Declaration of Lead Trial Counsel Re: Compliance with Local Rules Governing Electronic Filing] filed by Plaintiff Yuga Labs, Inc.. (Ball, Eric) (Entered: 07/05/2022)
07/11/2022	<u>16</u>	Notice of Appearance or Withdrawal of Counsel: for attorney Henry Michael Nikogosyan counsel for Defendants Jeremy Cahen, Ryder Ripps. Filed by defendants Ryder Ripps and Jeremy Cahen. (Attorney Henry Michael Nikogosyan added to party Jeremy Cahen(pty:dft), Attorney Henry Michael Nikogosyan added to party Ryder Ripps(pty:dft))(Nikogosyan, Henry) (Entered: 07/11/2022)
07/11/2022	<u>17</u>	APPLICATION of Non-Resident Attorney Louis W. Tompros to Appear Pro Hac Vice on behalf of Defendants Jeremy Cahen, Ryder Ripps (Pro Hac Vice Fee – \$500 Fee Paid, Receipt No. ACACDC–33608868) filed by defendants Jeremy Cahen, Ryder Ripps. (Attachments: # <u>1</u> Proposed Order) (Nikogosyan, Henry) (Entered: 07/11/2022)
07/12/2022	<u>18</u>	ORDER by Judge John F. Walter: Granting Application of Non-Resident Attorney Louis Tompros to Appear Pro Hac Vice on behalf of Defendant Ryder Ripps and Jeremy Cahen, designating Henry Nikogosyan as local counsel <u>17</u> . (iv) (Entered: 07/12/2022)
07/13/2022	<u>19</u>	DECLARATION of Lead Trial Counsel filed by Defendants Jeremy Cahen, Ryder Ripps. (Tompros, Louis) (Entered: 07/13/2022)
07/13/2022	<u>20</u>	NOTICE of Interested Parties filed by Defendants Jeremy Cahen, Ryder Ripps, (Tompros, Louis) (Entered: 07/13/2022)
07/14/2022	<u>21</u>	STIPULATION for Extension of Time to File Answer to August 29, 2022 and Modify Briefing Schedule for 12(B) Motions filed by defendants Jeremy Cahen, Ryder Ripps. (Attachments: # <u>1</u> Proposed Order)(Tompros, Louis) (Entered: 07/14/2022)
07/15/2022	<u>22</u>	ORDER EXTENDING TIME TO RESPOND TO THE COMPLAINT AND MODIFY BRIEFING SCHEDULE FOR 12(B) MOTIONS <u>21</u> by Judge John F. Walter. Defendants Ripps and Cahens deadline to respond to the Complaint is hereby set to August 29, 2022. The hearing for any motion filed by Defendants pursuant to Fed. R. Civ. P. 12(b) on or before August 29, 2022, shall be held on or after October 3, 2022. (iv) (Entered: 07/15/2022)
07/15/2022	<u>23</u>	PROOF OF SERVICE Executed by Plaintiff Yuga Labs, Inc., upon Defendant Ryder Ripps served on 6/29/2022, answer due 8/29/2022. Service of the Summons and Complaint were executed upon RYDER RIPPS in compliance with statute not specified by personal service.Original Summons NOT returned. (Ball, Eric) (Entered: 07/15/2022)
07/15/2022	<u>24</u>	PROOF OF SERVICE Executed by Plaintiff Yuga Labs, Inc., upon Defendant Jeremy Cahen served on 7/14/2022, answer due 8/29/2022. Service of the Summons and Complaint were executed upon Louis W. Tompros, Attorney for Defendant Cahen in compliance with statute not specified by method of service not specified.Original Summons NOT returned. (Ball, Eric) (Entered: 07/15/2022)
07/29/2022	<u>25</u>	APPLICATION of Non-Resident Attorney Scott W Bertulli to Appear Pro Hac Vice on behalf of Defendants Jeremy Cahen, Ryder Ripps (Pro Hac Vice Fee – \$500 Fee Paid, Receipt No. ACACDC–33720620) filed by defendant Jeremy Cahen, Ryder Ripps. (Attachments: # <u>1</u> Proposed Order) (Nikogosyan, Henry) (Entered: 07/29/2022)
08/01/2022	<u>26</u>	ORDER by Judge John F. Walter: Granting Application of Non-Resident Attorney Scott Bertulli to Appear Pro Hac Vice on behalf of Defendant Ryder Ripps and Jeremy Cahen, designating Henry Nikogosyan as local counsel <u>25</u> . (iv) (Entered: 08/01/2022)
08/04/2022	<u>27</u>	APPLICATION of Non-Resident Attorney Monica Grewal to Appear Pro Hac Vice on behalf of Defendants Jeremy Cahen, Ryder Ripps (Pro Hac Vice Fee – \$500 Fee Paid, Receipt No. ACACDC–33750651) filed by defendants Jeremy Cahen, Ryder Ripps. (Attachments: # <u>1</u> Proposed Order) (Nikogosyan, Henry) (Entered: 08/04/2022)
08/05/2022	<u>28</u>	ORDER by Judge John F. Walter: Granting Application of Non-Resident Attorney Monica Grewal to Appear Pro Hac Vice on behalf of Defendant Ryder Ripps and Jeremy Cahen, designating Henry Nikogosyan as local counsel <u>27</u> . (iv) (Entered: 08/05/2022)



08/15/2022	<u>29</u>	*Stricken* NOTICE OF MOTION AND MOTION to Strike Complaint, or in the Alternative, Motion to Dismiss filed by defendants Jeremy Cahen, Ryder Ripps. Motion set for hearing on 10/17/2022 at 01:30 PM before Judge John F. Walter. (Attachments: # <u>1</u> Declaration of Ryder Ripps, # <u>2</u> Exhibit 1, # <u>3</u> Declaration of Louis W. Tompros, # <u>4</u> Exhibit 1, # <u>5</u> Exhibit 2, # <u>6</u> Exhibit 3, # <u>7</u> Exhibit 4, # <u>8</u> Exhibit 5, # <u>9</u> Exhibit 6, # <u>10</u> Exhibit 7, # <u>11</u> Exhibit 8, # <u>12</u> Exhibit 9, # <u>13</u> Exhibit 10, # <u>14</u> Exhibit 11, # <u>15</u> Exhibit 12, # <u>16</u> Exhibit 13, # <u>17</u> Exhibit 14, # <u>18</u> Exhibit 15, # <u>19</u> Exhibit 16, # <u>20</u> Exhibit 17, # <u>21</u> Exhibit 18, # <u>22</u> Exhibit 19, # <u>23</u> Exhibit 20, # <u>24</u> Exhibit 21, # <u>25</u> Exhibit 22, # <u>26</u> Exhibit 23, # <u>27</u> Exhibit 24, # <u>28</u> Exhibit 25, # <u>29</u> Exhibit 26, # <u>30</u> Exhibit 27, # <u>31</u> Exhibit 28, # <u>32</u> Exhibit 29, # <u>33</u> Exhibit 30, # <u>34</u> Exhibit 31, # <u>35</u> Exhibit 32, # <u>36</u> Exhibit 33) (Tompros, Louis) Modified on 8/15/2022 (sr). Modified on 8/17/2022 (sr). Modified on 8/19/2022 (sr). (Entered: 08/15/2022)
08/15/2022	30	Text Entry Order STRIKING Motion <u>29</u> . Hearing date is untimely. This may not be the only deficiency in this filing. Counsel shall refer to the Court's Standing Order <u>14</u> before refileing any Motion. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (sr) TEXT ONLY ENTRY (Entered: 08/15/2022)
08/17/2022	31	Text Entry Order vacating the Court's Order Striking the ANTI-SLAPP MOTION TO STRIKE COMPLAINT, OR IN THE ALTERNATIVE, MOTION TO DISMISS <u>29</u> and restoring it to the October 17, 2022 calendar at 1:30 p.m. before Judge John F. Walter. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (sr) TEXT ONLY ENTRY (Entered: 08/17/2022)
08/17/2022	<u>32</u>	MINUTE (IN CHAMBERS) COURT ORDER by Judge John F. Walter. Counsel are hereby notified that a Scheduling Conference has been set for October 31, 2022 at 1:15 p.m. before Judge John F. Walter in Courtroom 7A, 350 W. 1st St, Los Angeles, CA 90012. Lead Trial Counsel shall attend all proceedings before this Court, including the Scheduling Conference. Counsel are directed to comply with Rule 26 of the Federal Rules of Civil Procedure and Local Rule 26-1 in a timely fashion and to file a Joint Report, on or before October 20, 2022. (iv) (Entered: 08/17/2022)
08/19/2022	33	Text Entry Order: Defendants Anti-SLAPP Motion to Strike Complaint, or in the Alternative, Motion to Dismiss, filed August 15, 2022 (Docket No. <u>29</u> ), is STRICKEN for failure to comply with paragraph 5(b) of the Court's Standing Order, which requires the Joint Statement to be filed 3 days after the Local Rule 7-3 conference. If Defendants wish to re-file the Motion, lead counsel shall meet and confer in person or by video by August 25, 2022. If the parties cannot resolve the issues raised in the Motion, on or before August 29, 2022, each party shall file a declaration setting forth the issues resolved at the conference and those issues that were not resolved with a detailed explanation of why those issues could not be resolved. If a Motion remains necessary, it shall not be filed until 2 days after each party files the declaration required by this Order. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (sr) TEXT ONLY ENTRY (Entered: 08/19/2022)
08/26/2022	<u>34</u>	STIPULATION Extending Time to Answer the complaint as to Jeremy Cahen answer now due 8/31/2022; Ryder Ripps answer now due 8/31/2022, filed by defendants Jeremy Cahen; Ryder Ripps. (Attachments: # <u>1</u> Proposed Order)(Tompros, Louis) (Entered: 08/26/2022)
08/29/2022	<u>35</u>	DECLARATION of Eric Ball re Text Only Scheduling Notice,,, 33 <i>Plaintiff Yuga Labs, Inc.'s Declaration of Eric Ball re: Meet and Confer in Accordance with the Court's August 19, 2022 Order (Dkt. 33)</i> filed by Plaintiff Yuga Labs, Inc.. (Ball, Eric) (Entered: 08/29/2022)
08/29/2022	<u>36</u>	DECLARATION of Louis W. Tompros <i>Regarding the August 23, 2022, Local Rule 7-3 Conference</i> filed by Defendants Jeremy Cahen, Ryder Ripps. (Tompros, Louis) (Entered: 08/29/2022)
08/29/2022	<u>37</u>	ORDER EXTENDING TIME TO RESPOND TO THE COMPLAINT <u>34</u> by Judge John F. Walter. Defendants Ripps and Cahen's deadline to respond to the Complaint is hereby set to August 31, 2022. (iv) (Entered: 08/29/2022)
08/31/2022	<u>38</u>	*Stricken* NOTICE OF MOTION AND MOTION to Strike Certain Claims, or in the Alternative, to Dismiss filed by Defendants Jeremy Cahen, Ryder Ripps. Motion set for hearing on 10/31/2022 at 01:30 PM before Judge John F. Walter. (Attachments: # <u>1</u>



		Declaration of Ryder Ripps, # <u>2</u> Exhibit 1, # <u>3</u> Declaration of Louis Tompros, # <u>4</u> Exhibit 1, # <u>5</u> Exhibit 2, # <u>6</u> Exhibit 3, # <u>7</u> Exhibit 4, # <u>8</u> Exhibit 5, # <u>9</u> Exhibit 6, # <u>10</u> Exhibit 7, # <u>11</u> Exhibit 8, # <u>12</u> Exhibit 9, # <u>13</u> Exhibit 10, # <u>14</u> Exhibit 11, # <u>15</u> Exhibit 12, # <u>16</u> Exhibit 13, # <u>17</u> Exhibit 14, # <u>18</u> Exhibit 15, # <u>19</u> Exhibit 16, # <u>20</u> Exhibit 17, # <u>21</u> Exhibit 18, # <u>22</u> Exhibit 19, # <u>23</u> Exhibit 20, # <u>24</u> Exhibit 21, # <u>25</u> Exhibit 22, # <u>26</u> Exhibit 23, # <u>27</u> Exhibit 24, # <u>28</u> Exhibit 25, # <u>29</u> Exhibit 26, # <u>30</u> Exhibit 27, # <u>31</u> Exhibit 28, # <u>32</u> Exhibit 29, # <u>33</u> Exhibit 30, # <u>34</u> Exhibit 31, # <u>35</u> Exhibit 32, # <u>36</u> Exhibit 33, # <u>37</u> Exhibit 34, # <u>38</u> Exhibit 35, # <u>39</u> Proposed Order) (Tompros, Louis) Modified on 9/1/2022 (sr). (Entered: 08/31/2022)
09/01/2022	<u>39</u>	STATEMENT re Local Rule 7–3 Conference (Joint) filed by Defendants Jeremy Cahen, Ryder Ripps (Tompros, Louis) (Entered: 09/01/2022)
09/01/2022	<u>40</u>	Text Entry Order: Defendants Anti–Slapp Motion to Strike and Motion to Dismiss, filed August 31, 2022 (Docket No. <u>38</u> ), is STRICKEN for violating paragraph 3(b) of the Courts Standing Order. Defendant shall not re–file this Motion without leave of the Court. Defendants are ordered to show cause in writing on or before September 6, 2022, why lead counsel should not be sanctioned in the amount of \$1,500.00 for Defendants repeated violations of the Courts Standing Order. No oral argument on this matter will be heard unless otherwise ordered by the Court. See Fed. R. Civ. P. 78; Local Rule 7–15. The Order to Show Cause will stand submitted upon the filing of the response to the Order to Show Cause. Failure to respond to the Order to Show Cause will result in the imposition of sanctions. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (sr) TEXT ONLY ENTRY (Entered: 09/01/2022)
09/06/2022	<u>41</u>	RESPONSE filed by Defendants Jeremy Cahen, Ryder Rippsto Text Only Scheduling Notice,,, <u>40</u> ( <i>Response to Order to Show Cause</i> ) (Tompros, Louis) (Entered: 09/06/2022)
09/06/2022	<u>42</u>	DECLARATION of Louis W. Tompros re Response <u>41</u> filed by Defendants Jeremy Cahen, Ryder Ripps. (Tompros, Louis) (Entered: 09/06/2022)
09/22/2022	<u>43</u>	NOTICE OF LODGING filed of <i>Proposed Order</i> re Text Only Scheduling Notice,,, <u>40</u> , Response <u>41</u> (Attachments: # <u>1</u> Proposed Order Regarding Response to Order to Show Cause)(Tompros, Louis) (Entered: 09/22/2022)
09/26/2022	<u>44</u>	ORDER <u>43</u> by Judge John F. Walter. The Court's September 1, 2020, Order to Show Cause is discharged. Defendants shall re–file their motion to strike and motion to dismiss aspreviously filed, with corrections to the CM/ECF System names for each filed document, no later than seven (7) days after entry of this order. (iv) (Entered: 09/26/2022)
09/30/2022	<u>45</u>	STIPULATION to Continue Scheduling Conference from October 31, 2022 to November 7, 2022 filed by Plaintiff Yuga Labs, Inc. Yuga Labs, Inc.. (Attachments: # <u>1</u> Proposed Order Continuing Scheduling Conference and Setting Hearing for Defendants' Motion)(Ball, Eric) (Entered: 09/30/2022)
09/30/2022	<u>46</u>	ORDER DENYING CONTINUING SCHEDULING CONFERENCE AND SETTING HEARING FOR DEFENDANTS' MOTION <u>45</u> by Judge John F. Walter. DENIED BY ORDER OF THE COURT. (iv) (Entered: 09/30/2022)
10/03/2022	<u>47</u>	STIPULATION to Continue Scheduling Conference from October 31, 2022 to November 7, 2022 filed by Plaintiff Yuga Labs, Inc. Yuga Labs, Inc.. (Attachments: # <u>1</u> Declaration Declaration of Eric Ball in Support of Stipulation to Continue Scheduling Conference and Set Hearing for Defendants' Motion, # <u>2</u> Proposed Order Continuing Scheduling Conference and Setting Hearing for Defendants' Motion)(Ball, Eric) (Entered: 10/03/2022)
10/03/2022	<u>48</u>	NOTICE OF MOTION AND MOTION to Strike Certain Causes of Action, or in the Alternative, Motion to Dismiss filed by Defendants Jeremy Cahen, Ryder Ripps. Motion set for hearing on 11/7/2022 at 01:30 PM before Judge John F. Walter. (Attachments: # <u>1</u> Declaration of Ryder Ripps, # <u>2</u> Exhibit 1: List of NFT projects that use BAYC NFT images, # <u>3</u> Declaration of Louis Tompros, # <u>4</u> Exhibit 1: Excerpts of <a href="https://rrbayc.com">https://rrbayc.com</a> webpage, # <u>5</u> Exhibit 2: <a href="https://gordongoner.com">https://gordongoner.com</a> webpage, # <u>6</u> Exhibit 3: July 8, 2014, New York Times article about Ryder Ripps, # <u>7</u> Exhibit 4: Forbes profile for Ryder Ripps, # <u>8</u> Exhibit 5: March 2015 Brooklyn Rail review of



		Mr. Rippss Ho exhibition, # <u>9</u> Exhibit 6: Postmasters Gallerys online listing, # <u>10</u> Exhibit 7: March 3, 2015, Complex review of Mr. Rippss Alone Together installation, # <u>11</u> Exhibit 8: July 6, 2021, yahoo!finance article about Mr. Rippss CryptoPunk #3100 NFT artwork, # <u>12</u> Exhibit 9: Anti-Defamation Leagues webpage for the hate symbol 18, # <u>13</u> Exhibit 10: 2020 Journal for the Study of Radicalism, Vol. 14, No. 2, article on the Alt-Right and the Neofascist Movement in the United States, # <u>14</u> Exhibit 11: October 21, 2019, <a href="https://digitalmethods.net">https://digitalmethods.net</a> chapter entry discussing the secret histories/dog whistles associated with neofascism on 4/chan/pol, # <u>15</u> Exhibit 12: August 17, 2017, Marginalia article on Alt-Right/neofascist use of Hindu ideas, # <u>16</u> Exhibit 13: Richard Spencers July 31, 2022, 5:54 p.m. Twitter post, # <u>17</u> Exhibit 14: Frederick Brennans August 22, 2022, 2:22 p.m. Twitter post, # <u>18</u> Exhibit 15: Direct messages between Richard Spencer and Frederick Brennan, # <u>19</u> Exhibit 16: July 31, 2022, <a href="https://waveninja.substack.com">https://waveninja.substack.com</a> article discussing Yuga co-founder Wylie Aronows admitted connections to an Alt-Right publisher, # <u>20</u> Exhibit 17: March 31, 2019, IdentifyEvropa article on Alt-Right activities in the United States, # <u>21</u> Exhibit 18: GH Records page for the Surf The Kali Yuga T-Shirt, # <u>22</u> Exhibit 19: Compiled Twitter posts criticizing Yuga Labs, Inc.s use of simianization, # <u>23</u> Exhibit 20: February 1, 2022, Input Magazine article including criticism from ADL senior researchers on racist imagery in the Bored Ape Yacht Club, # <u>24</u> Exhibit 21: OpenSea listing for BAYC #3721, # <u>25</u> Exhibit 22: OpenSea listing for BAYC #6281, # <u>26</u> Exhibit 23: mirror.xyz page displaying metadata provenance information, # <u>27</u> Exhibit 24: September 1, 2022, coindesk article of interview with Yuga co-founders Wylie Aronow and Greg Solano, # <u>28</u> Exhibit 25: Mr. Rippss May 14, 2022, 9:52 p.m. Twitter post, # <u>29</u> Exhibit 26: May 13, 2022, Boardroom article identifying celebrity owners of Bored Ape Yacht Club NFTs, # <u>30</u> Exhibit 27: Mr. Rippss May 14, 2022, 7:34 p.m. Twitter post, # <u>31</u> Exhibit 28: Mr. Rippss May 15, 2022, 1:21 a.m. Twitter post, # <u>32</u> Exhibit 29: June 24, 2022, The Coin Republic article on the #BURNBAYC movement and Yuga propagating racism, # <u>33</u> Exhibit 30: July 3, 2022, Decrypt article discussing background events associated with Yugas lawsuit against Mr. Ripps and Mr. Cahen, # <u>34</u> Exhibit 31: July 14, 2022, The Manual article discussing public debate on Yugas racism, # <u>35</u> Exhibit 32: July 23, 2022, Cryptopolitan article discussing the public opinion crisis regarding Yugas Nazi-related NFTS, # <u>36</u> Exhibit 33: July 24, 2022, Cryptoslate article on a popular documentary that discusses Yugas use of Nazi imagery, # <u>37</u> Exhibit 34: July 27, 2022, The Defiant article including commentary on Mr. Rippss artistic achievement with the RR/BAYC project, # <u>38</u> Exhibit 35: <a href="https://apemarket.com">https://apemarket.com</a> front webpage, # <u>39</u> Proposed Order) (Tompros, Louis) (Entered: 10/03/2022)
10/03/2022	<u>49</u>	ORDER DENYING CONTINUING SCHEDULING CONFERENCE AND SETTING HEARING FOR DEFENDANTS' MOTION <u>47</u> by Judge John F. Walter. DENIED BY ORDER OF THE COURT. (iv) (Entered: 10/03/2022)
10/07/2022	<u>50</u>	STIPULATION for Protective Order filed by Plaintiff Yuga Labs, Inc. Yuga Labs, Inc..(Ball, Eric) (Entered: 10/07/2022)
10/11/2022	<u>51</u>	STIPULATION AND PROTECTIVE ORDER by Magistrate Judge John E. McDermott re Stipulation for Protective Order <u>50</u> . See Order for details. (es) (Entered: 10/11/2022)
10/13/2022	<u>52</u>	Notice of Appearance or Withdrawal of Counsel: for attorney Derek A. Gosma counsel for Defendants Jeremy Cahen, Ryder Ripps. Adding Derek Gosma as counsel of record for Ryder Ripps and Jeremy Cahen for the reason indicated in the G-123 Notice. Filed by Defendants Ryder Ripps and Jeremy Cahen. (Attorney Derek A. Gosma added to party Jeremy Cahen(pty:dft), Attorney Derek A. Gosma added to party Ryder Ripps(pty:dft))(Gosma, Derek) (Entered: 10/13/2022)
10/17/2022	<u>53</u>	MEMORANDUM in Opposition to NOTICE OF MOTION AND MOTION to Strike Certain Causes of Action, or in the Alternative, Motion to Dismiss <u>48</u> filed by Plaintiff Yuga Labs, Inc.. (Ball, Eric) (Entered: 10/17/2022)
10/17/2022	<u>54</u>	Objection in Opposition re: NOTICE OF MOTION AND MOTION to Strike Certain Causes of Action, or in the Alternative, Motion to Dismiss <u>48</u> <i>Yuga Labs, Inc.'s Objections to Defendants' Evidence Filed with Defendants' Motion to Strike and Dismiss</i> filed by Plaintiff Yuga Labs, Inc.. (Ball, Eric) (Entered: 10/17/2022)



10/20/2022	<u>55</u>	JOINT REPORT Rule 26(f) Discovery Plan ; estimated length of trial 5 – 7 days, filed by Plaintiff Yuga Labs, Inc... (Ball, Eric) (Entered: 10/20/2022)
10/21/2022	<u>56</u>	ORDER VACATING SCHEDULING CONFERENCE, REFERRAL TO PRIVATE MEDIATION, and DISMISSING ANY UNSERVED DOE DEFENDANTS by Judge John F. Walter. The Court has reviewed the parties' Joint Rule 26(f) Report and finds that a Scheduling Conference is not necessary. The hearing on October 31, 2022 is vacated and taken off calendar. A Scheduling and Case Management Order will issue. Any unserved DOE defendants are dismissed at this time. The Court, having considered the parties Request: ADR Procedure Selection, the Notice to Parties of Court-Directed ADR Program, or the report submitted by the parties pursuant to Fed. R. Civ. P. 26(f) and Civil L.R. 26-1, hereby: ORDERS this case referred to: ADR PROCEDURE NO. 3: (Private mediation). The ADR proceeding is to be completed no later than: January 23, 2023. The Joint Report re: Results of Settlement Conference due on: January 27, 2023. (iv) (Entered: 10/21/2022)
10/21/2022	<u>57</u>	SCHEDULING AND CASE MANAGEMENT ORDER by Judge John F. Walter. The purpose of this Order is to notify the parties and their counsel of the deadlines and the schedule that will govern this action. Pretrial Conference set for 6/9/2023 at 8:00 AM. Hearing on Motions in Limine; Disputed Jury Instructions set for 6/16/2023 at 8:00 AM. Jury Trial set for 6/27/2023 at 8:30 AM. SEE ORDER FOR DETAILS. (iv) (Entered: 10/21/2022)
10/24/2022	<u>58</u>	REPLY in support NOTICE OF MOTION AND MOTION to Strike Certain Causes of Action, or in the Alternative, Motion to Dismiss <u>48</u> ( <i>Reply in Support of Anti-Slapp Motion to Strike and Motion to Dismiss</i> ) filed by Defendants Jeremy Cahen, Ryder Ripps. (Tompros, Louis) (Entered: 10/24/2022)
10/26/2022	<u>59</u>	NOTICE OF LODGING filed of <i>Proposed Statement of Decision</i> re NOTICE OF MOTION AND MOTION to Strike Certain Causes of Action, or in the Alternative, Motion to Dismiss <u>48</u> (Attachments: # <u>1</u> Proposed Statement of Decision)(Tompros, Louis) (Entered: 10/26/2022)
10/26/2022	<u>60</u>	NOTICE OF LODGING filed ( <i>Proposed</i> ) <i>Statement of Decision Denying Defendants' Motion to Strike and Dismiss</i> ) re NOTICE OF MOTION AND MOTION to Strike Certain Causes of Action, or in the Alternative, Motion to Dismiss <u>48</u> (Attachments: # <u>1</u> [ <i>Proposed</i> ] <i>Statement of Decision Denying Defendants' Motion to Strike and Dismiss</i> )(Ball, Eric) (Entered: 10/26/2022)
11/03/2022	<u>61</u>	ORDER TAKING UNDER SUBMISSION DEFENDANTS ANTI-SLAPP MOTION AND MOTION TO DISMISS <u>48</u> by Judge John F. Walter. Defendants Anti-SLAPP Motion and Motion to Dismiss is currently on calendar for November 7, 2022, at 1:30 p.m. Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds that this matter is appropriate for decision without oral argument. The hearing calendared for November 7, 2022 is hereby vacated and the matter is taken off calendar. The matter will be deemed submitted on the vacated hearing date and the clerk will notify the parties when the Court has reached a decision. IT IS SO ORDERED. (rolm) (Entered: 11/03/2022)
12/16/2022	<u>62</u>	MINUTES (IN CHAMBERS) ORDER DENYING IN PART AND GRANTING IN PART DEFENDANTS ANTI-SLAPP MOTION TO STRIKE AND MOTION TO DISMISS [filed 10/3/22; Docket No. <u>48</u> ] by Judge John F. Walter. Defendants' Motion is DENIED in part and GRANTED in part. Defendants Anti-SLAPP Motion is DENIED. Defendants Motion to Dismiss is DENIED, except with respect to Plaintiffs eighth cause of action for unjust enrichment. Defendants Motion to Dismiss is GRANTED with respect to Plaintiffs eighth cause of action for unjust enrichment, and that cause of action is DISMISSED without prejudice. (iv) (Entered: 12/16/2022)
12/21/2022	<u>63</u>	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by Defendants Jeremy Cahen, Ryder Ripps. Appeal of Order on Motion to Strike,, <u>62</u> . (Appeal Fee – \$505 Fee Paid, Receipt No. ACACDC-34514803.) (Tompros, Louis) (Entered: 12/21/2022)
12/22/2022	<u>64</u>	NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 22-56199 assigned to Notice of Appeal to 9th Circuit Court of Appeals <u>63</u> as to Defendant Jeremy Cahen, Ryder Ripps. (iv) (Entered: 12/22/2022)



12/27/2022	<u>65</u>	ANSWER to Complaint (Attorney Civil Case Opening) <u>1</u> with JURY DEMAND , COUNTERCLAIM against Yuga Labs, Inc. filed by Defendants Jeremy Cahen, Ryder Ripps.(Tompros, Louis) (Entered: 12/27/2022)
12/27/2022	<u>66</u>	NOTICE OF MOTION AND MOTION to Compel Defendants to supplement document productions and responses to interrogatories filed by Plaintiff Yuga Labs, Inc.. Motion set for hearing on 1/17/2023 at 10:00 AM before Magistrate Judge John E. McDermott. (Thomas, Ethan) (Entered: 12/27/2022)
12/27/2022	<u>67</u>	JOINT STIPULATION to MOTION to Compel Defendants to supplement document productions and responses to interrogatories <u>66</u> filed by Plaintiff Yuga Labs, Inc.. (Attachments: # <u>1</u> Declaration of Ethan Thomas, # <u>2</u> Exhibit 1 to Thomas Declaration, # <u>3</u> Exhibit 2 to Thomas Declaration, # <u>4</u> Exhibit 3 to Thomas Declaration, # <u>5</u> Exhibit 4 to Thomas Declaration, # <u>6</u> Exhibit 5 to Thomas Declaration, # <u>7</u> Exhibit 6 to Thomas Declaration, # <u>8</u> Exhibit 7 to Thomas Declaration, # <u>9</u> Exhibit 8 to Thomas Declaration, # <u>10</u> Exhibit 9 to Thomas Declaration, # <u>11</u> Exhibit 10 to Thomas Declaration, # <u>12</u> Exhibit 11 to Thomas Declaration, # <u>13</u> Exhibit 12 to Thomas Declaration, # <u>14</u> Exhibit 13 to Thomas Declaration, # <u>15</u> Exhibit 14 to Thomas Declaration, # <u>16</u> Exhibit 15 to Thomas Declaration, # <u>17</u> Exhibit 16 to Thomas Declaration, # <u>18</u> Exhibit 17 to Thomas Declaration, # <u>19</u> Exhibit 18 to Thomas Declaration, # <u>20</u> Exhibit 19 to Thomas Declaration, # <u>21</u> Exhibit 20 to Thomas Declaration, # <u>22</u> Exhibit 21 to Thomas Declaration, # <u>23</u> Exhibit 22 to Thomas Declaration, # <u>24</u> Exhibit 23 to Thomas Declaration, # <u>25</u> Exhibit 24 to Thomas Declaration, # <u>26</u> Exhibit 25 to Thomas Declaration, # <u>27</u> Exhibit 26 to Thomas Declaration, # <u>28</u> Exhibit 27 to Thomas Declaration, # <u>29</u> Exhibit 28 to Thomas Declaration, # <u>30</u> Declaration of Derek Gosma, # <u>31</u> Exhibit 1 to Gosma Declaration)(Thomas, Ethan) (Entered: 12/27/2022)
12/28/2022	<u>68</u>	NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Document RE: MOTION to Compel Defendants to supplement document productions and responses to interrogatories <u>66</u> . The following error(s) was/were found: Proposed document was not submitted or was not submitted as a separate attachment. In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (es) (Entered: 12/28/2022)
12/28/2022	<u>69</u>	NOTICE OF MOTION AND MOTION to Compel Plaintiff Yuga Labs, Inc. to supplement document productions and responses to interrogatories filed by Defendants Jeremy Cahen, Ryder Ripps. Motion set for hearing on 1/24/2023 at 10:00 AM before Magistrate Judge John E. McDermott. (Attachments: # <u>1</u> Local Rule 37 Joint Stipulation re Ryder Ripps and Jeremy Cahen's Motion to Compel, # <u>2</u> Declaration of Derek Gosma, # <u>3</u> Exhibit 1 – Scheduling & Case Management Order, # <u>4</u> Exhibit 2 – Defendants' First Set of RFPs (Nos. 1–58), # <u>5</u> Exhibit 3 – Defendants' First Set of ROGs (Nos. 1–14), # <u>6</u> Exhibit 4 – Yuga's O&Rs to Defendants' First Set of RFPs (Nos. 1–58), # <u>7</u> Exhibit 5 – Yuga's O&Rs to Defendants' First Set of ROGs (Nos. 1–14), # <u>8</u> Exhibit 6 – Emails Regarding November 28, 2022, conference, # <u>9</u> Exhibit 7 – 11.18.22 Nikogosyan letter to Culp, # <u>10</u> Exhibit 8 – 12.1.22 Nikogosyan letter to Thomas, # <u>11</u> Exhibit 9 – 12.15.22 Thomas letter to Nikogosyan, # <u>12</u> Exhibit 10 – Emails Regarding Deposition Scheduling, # <u>13</u> Exhibit 11 – Notice of Deposition of Jeremy Cahen, # <u>14</u> Exhibit 12 – Notice of Deposition of Ryder Ripps, # <u>15</u> Exhibit 13 – Ripps and Cahen's 30(b)(6) deposition notice to Yuga, # <u>16</u> Exhibit 14 – Notice of Deposition of G. Solano, # <u>17</u> Exhibit 15 – Notice of Deposition of W. Aronow, # <u>18</u> Exhibit 16 – 10.31.2022 Tompros Letter Regarding Subpoenas, # <u>19</u> Declaration of Ethan M. Thomas, # <u>20</u> Exhibit 1 – Yuga Labs First Supp. Response to RFPs (Set One) (Nos. 1–58), # <u>21</u> Exhibit 2 – Yuga Labs First Supp. Response to ROGs (Set One) (Nos. 1–14), # <u>22</u> Exhibit 3 – Anti–SLAPP Motion, # <u>23</u> Exhibit 4 – Memorandum in Opposition to Motion to Strike, # <u>24</u> Exhibit 5 – Reply in Support of Motion to Strike, # <u>25</u> Exhibit 6 – Minutes in Chambers, # <u>26</u> Exhibit 7 – Notice of Appeal, # <u>27</u> Exhibit 8 – Mr. Ripps and Mr. Cahen's Initial Disclosures, # <u>28</u> Exhibit 9 – Joint Report Rule 26f Discovery Plan, # <u>29</u> Exhibit 10 – Ball Letter to L. Tompros, # <u>30</u> Exhibit 11 – Cahen's 10–17–2022 Tweet, # <u>31</u> Exhibit 12 – Cahen's 12–16–2022 Tweet, # <u>32</u> Exhibit 13 – ARTnews Article, # <u>33</u> Exhibit 14 – Email Thread re Depositions, # <u>34</u> Exhibit 15 – Email Thread re Stay, # <u>35</u> Exhibit 16 – 2022–12–23 Production Email, # <u>36</u> Exhibit 17 – Email Thread re Extension, # <u>37</u> Proposed Order)(Gosma, Derek) (Entered: 12/28/2022)



01/03/2023	<u>70</u>	MEMORANDUM in Opposition to MOTION to Compel Defendants to supplement document productions and responses to interrogatories <u>66</u> filed by Defendants Jeremy Cahen, Ryder Ripps. (Attachments: # <u>1</u> Declaration of Derek Gosma in Support, # <u>2</u> Exhibit 1 – Mr. Ripp's Second Supplemental to Interrogatories, # <u>3</u> Exhibit 2 – Plaintiff's Jan. 3, 2022, Twitter Post, # <u>4</u> Exhibit 3 – Plaintiff's LinkedIn Profile, # <u>5</u> Exhibit 4 – Aronow Nov. 9, 2022, Twitter Post, # <u>6</u> Exhibit 5 – Plaintiff's First Supplement to Interrogatories)(Gosma, Derek) (Entered: 01/03/2023)
01/03/2023	<u>71</u>	MEMORANDUM in Support of MOTION to Compel Defendants to supplement document productions and responses to interrogatories <u>66</u> filed by Plaintiff Yuga Labs, Inc., Counter Defendant Yuga Labs, Inc.. (Thomas, Ethan) (Entered: 01/03/2023)
01/04/2023	<u>72</u>	SCHEDULING NOTICE by Magistrate Judge John E. McDermott re: MOTION to Compel Defendants to supplement document productions and responses to interrogatories <u>66</u> . The hearing set for 1/17/2023 is hereby off calendar. A ruling will follow. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (san) TEXT ONLY ENTRY (Entered: 01/04/2023)
01/04/2023	<u>73</u>	SCHEDULING NOTICE by Magistrate Judge John E. McDermott re: MOTION to Compel Plaintiff Yuga Labs, Inc. to supplement document productions and responses to interrogatories <u>69</u> . The hearing set for 1/24/2023 is hereby off calendar. A ruling will follow. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (san) TEXT ONLY ENTRY Modified on 1/4/2023 (san). (Entered: 01/04/2023)
01/04/2023	<u>74</u>	Notice filed by Defendants Jeremy Cahen, Ryder Ripps. <i>THAT NO TRANSCRIPTS WILL BE ORDERED FOR PURPOSES OF APPEAL</i> (Tompros, Louis) (Entered: 01/04/2023)
01/05/2023	<u>75</u>	EX PARTE APPLICATION for Protective Order for Apex Depositions filed by Plaintiff Yuga Labs, Inc.. (Attachments: # <u>1</u> Proposed Order Granting Plaintiff Yuga Labs, Inc.'s Ex Parte Application for a Protective Order, # <u>2</u> Declaration of Eric Ball in Support of Plaintiff Yuga Labs, Inc.'s Ex Parte Application for a Protective Order Regarding Apex Depositions, # <u>3</u> Exhibit 1 to the Declaration of Eric Ball, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit 5, # <u>8</u> Exhibit 6, # <u>9</u> Exhibit 7, # <u>10</u> Exhibit 8, # <u>11</u> Exhibit 9, # <u>12</u> Exhibit 10)(Ball, Eric) (Entered: 01/05/2023)
01/06/2023	<u>76</u>	MEMORANDUM in Opposition to EX PARTE APPLICATION for Protective Order for Apex Depositions <u>75</u> filed by Defendants Jeremy Cahen, Ryder Ripps. (Tompros, Louis) (Entered: 01/06/2023)
01/08/2023	<u>77</u>	ORDER RE PLAINTIFF YUGA LABS, INC.'S EX PARTE APPLICATION FOR A PROTECTIVE ORDER REGARDING APEX DEPOSITIONS by Magistrate Judge John E. McDermott denying <u>75</u> Ex Parte Application for Protective Order re EX PARTE APPLICATION for Protective Order for Apex Depositions <u>75</u> . [See Order for details.] (san) (Entered: 01/08/2023)
01/09/2023	<u>78</u>	STATEMENT (Joint) Re Local Rule 7–3 Conference re Plaintiff's Motion to Dismiss Counterclaims filed by Plaintiff Yuga Labs, Inc., Counter Defendant Yuga Labs, Inc. (Ball, Eric) (Entered: 01/09/2023)
01/10/2023	<u>79</u>	MINUTE ORDER (IN CHAMBERS) ORDER RE PLAINTIFF YUGA LABS, INC.'S MOTION TO COMPEL PURSUANT TO LOCAL RULE 37–2 (Dkt. No. <u>66</u> ) by Magistrate Judge John E. McDermott: The Court therefore will require Defendant to complete its document production and interrogatory responses by January 17, 2023 in accord with Defendant's representations. Both parties are ordered to meet and confer on any remaining issues, in particular the issues raised by Yuga in its Supplemental Memorandum. (Dkt. 71.) The Court ORDERS Defendant to serve a verification by Mr. Ripps that he has produced all relevant non–privileged documents and interrogatory answers in his custody, control or possession also on January 17, 2023. Should any issues remain, Yuga can file a Joint Status Report thereafter but only after meeting and conferring first. [See document for further information.] (es) (Entered: 01/10/2023)
01/10/2023	<u>80</u>	MEMORANDUM in Support of MOTION to Compel Plaintiff Yuga Labs, Inc. to supplement document productions and responses to interrogatories <u>69</u> ( <i>Supplemental</i> ) filed by Defendants Jeremy Cahen, Ryder Ripps. (Tompros, Louis) (Entered: 01/10/2023)



01/10/2023	<u>81</u>	MEMORANDUM in Opposition to MOTION to Compel Plaintiff Yuga Labs, Inc. to supplement document productions and responses to interrogatories <u>69</u> filed by Plaintiff Yuga Labs, Inc., Counter Defendant Yuga Labs, Inc.. (Attachments: # <u>1</u> Declaration of Eric Ball)(Ball, Eric) (Entered: 01/10/2023)
01/12/2023	<u>82</u>	Notice of Appearance or Withdrawal of Counsel: for attorney Melissa Leigh Lawton counsel for Plaintiff Yuga Labs, Inc., Counter Defendant Yuga Labs, Inc.. Adding Melissa L. Lawton as counsel of record for Yuga Labs, Inc. for the reason indicated in the G-123 Notice. Filed by Plaintiff Yuga Labs, Inc.. (Attorney Melissa Leigh Lawton added to party Yuga Labs, Inc.(pty:pla), Attorney Melissa Leigh Lawton added to party Yuga Labs, Inc.(pty:cd))(Lawton, Melissa) (Entered: 01/12/2023)
01/12/2023	<u>83</u>	APPLICATION of Non-Resident Attorney David Y. Sillers to Appear Pro Hac Vice on behalf of Plaintiff Yuga Labs, Inc. (Pro Hac Vice Fee – \$500 Fee Paid, Receipt No. ACACDC-34611226) filed by Plaintiff Yuga Labs, Inc.. (Attachments: # <u>1</u> (Proposed) Order on Application of Non-Resident Attorney to Appear in a Specific Case Pro Hac Vice) (Lawton, Melissa) (Entered: 01/12/2023)
01/12/2023	<u>84</u>	APPLICATION of Non-Resident Attorney Kathryn G. Humphrey to Appear Pro Hac Vice on behalf of Plaintiff Yuga Labs, Inc. (Pro Hac Vice Fee – \$500 Fee Paid, Receipt No. ACACDC-34611341) filed by Plaintiff Yuga Labs, Inc.. (Attachments: # <u>1</u> (Proposed) Order on Application of Non-Resident Attorney to Appear in a Specific Case Pro Hac Vice) (Lawton, Melissa) (Entered: 01/12/2023)
01/12/2023	<u>85</u>	APPLICATION of Non-Resident Attorney Megan L. Meier to Appear Pro Hac Vice on behalf of Plaintiff Yuga Labs, Inc. (Pro Hac Vice Fee – \$500 Fee Paid, Receipt No. ACACDC-34611456) filed by Plaintiff Yuga Labs, Inc.. (Attachments: # <u>1</u> (Proposed) Order on Application of Non-Resident Attorney to Appear in a Specific Case Pro Hac Vice) (Lawton, Melissa) (Entered: 01/12/2023)
01/16/2023	<u>86</u>	*Stricken* NOTICE OF MOTION AND MOTION to Strike Counterclaims; Plaintiff Yuga Labs, Inc.'s Motion to Dismiss Counterclaims filed by Plaintiff Yuga Labs, Inc.. Motion set for hearing on 2/13/2023 at 01:30 PM before Judge John F. Walter. (Attachments: # <u>1</u> Plaintiff Yuga Labs, Inc.'s Request for Judicial Notice, # <u>2</u> Proposed Order, # <u>3</u> Declaration of Eric Ball in Support of Plaintiff Yuga Labs, Inc.'s Special Motion to Strike Counterclaims; Motion to Dismiss Counterclaims, # <u>4</u> Exhibit 1 – December 6, 2021 Ripps Twitter post, # <u>5</u> Exhibit 2 – Image of link referenced in para 62, Dkt 65, # <u>6</u> Exhibit 3 – May 21, 2022 Wayback Machine capture, # <u>7</u> Exhibit 4 – May 17, 2022 Wayback Machine capture, # <u>8</u> Exhibit 5 – May 18, 2022 Team Ape Market communications, # <u>9</u> Exhibit 6 – May 17, 2022 Ripps Twitter posts, # <u>10</u> Exhibit 7 – June 8, 2022 Team Ape Market communications, # <u>11</u> Exhibit 8 – June 8, 2022 Cahen Twitter post, # <u>12</u> Exhibit 9 – June 22, 2022 Ripps Twitter post, # <u>13</u> Exhibit 10 – Cahen Twitter posts of 9 – 27 – 22 and 10 – 9 – 22, # <u>14</u> Exhibit 11 – Cahen and Ripps Twitter posts of 1 – 11 – 23 and 1 – 12 – 23, # <u>15</u> Exhibit 12 – November 10, 2022 Cahen Twitter post, # <u>16</u> Exhibit 13 – December 27, 2022 Ripps Twitter post, # <u>17</u> Exhibit 14 – December 29, 2022 Ripps Twitter post, # <u>18</u> Exhibit 15 – January 5, 2023 Ripps Twitter post, # <u>19</u> Exhibit 16 – January 2, 2023 Cahen Twitter post, # <u>20</u> Exhibit 17 – January 3, 2023 Cahen Twitter post, # <u>21</u> Exhibit 18 – December 30, 2022 Ripps Twitter post, # <u>22</u> Exhibit 19 – October 18, 2022 Deft Ripps and Rodney Ripps Twitter posts, # <u>23</u> Exhibit 20 – October 25, 2022 Cahen and Rodney Ripps Twitter posts) (Ball, Eric) Modified on 1/18/2023 (sr). (Entered: 01/16/2023)
01/17/2023	<u>87</u>	MINUTES (IN CHAMBERS) ORDER RE DEFENDANTS RYDER RIPPS' AND JEREMY CAHEN'S MOTION TO COMPEL (Dkt. No. 69) by Magistrate Judge John E. McDermott: Denying <u>69</u> Motion to Compel. SEE DOCUMENT FOR DETAILS. (es) (Entered: 01/17/2023)
01/18/2023	88	Text Entry Order STRIKING MOTION to Strike Counterclaims <u>86</u> for insufficient time. Filing date was a Federal Holiday. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (sr) TEXT ONLY ENTRY (Entered: 01/18/2023)
01/18/2023	<u>89</u>	NOTICE OF MOTION AND MOTION to Strike Counterclaims; Plaintiff Yuga Labs, Inc.'s Motion to Dismiss Counterclaims filed by Plaintiff Yuga Labs, Inc.. Motion set for hearing on 2/27/2023 at 01:30 PM before Judge John F. Walter. (Attachments: # <u>1</u> Plaintiff Yuga Labs, Inc.'s Request for Judicial Notice, # <u>2</u> Proposed Order, # <u>3</u>



		Declaration of Eric Ball in Support of Plaintiff Yuga Labs, Inc.'s Special Motion to Strike Counterclaims; Motion to Dismiss Counterclaims, # <u>4</u> Exhibit 1 – December 6, 2021 Ripps Twitter post, # <u>5</u> Exhibit 2 – Image of link referenced in para 62, Dkt 65, # <u>6</u> Exhibit 3 – May 21, 2022 Wayback Machine capture, # <u>7</u> Exhibit 4 – May 17, 2022 Wayback Machine capture, # <u>8</u> Exhibit 5 – May 18, 2022 Team Ape Market communications, # <u>9</u> Exhibit 6 – May 17, 2022 Ripps Twitter posts, # <u>10</u> Exhibit 7 – June 8, 2022 Team Ape Market communications, # <u>11</u> Exhibit 8 – June 8, 2022 Cahen Twitter post, # <u>12</u> Exhibit 9 – June 22, 2022 Ripps Twitter post, # <u>13</u> Exhibit 10 – Cahen Twitter posts of 9 – 27 – 22 and 10 – 9 – 22, # <u>14</u> Exhibit 11 – Cahen and Ripps Twitter posts of 1 – 11 – 23 and 1 – 12 – 23, # <u>15</u> Exhibit 12 – November 10, 2022 Cahen Twitter post, # <u>16</u> Exhibit 13 – December 27, 2022 Ripps Twitter post, # <u>17</u> Exhibit 14 – December 29, 2022 Ripps Twitter post, # <u>18</u> Exhibit 15 – January 5, 2023 Ripps Twitter post, # <u>19</u> Exhibit 16 – January 2, 2023 Cahen Twitter post, # <u>20</u> Exhibit 17 – January 3, 2023 Cahen Twitter post, # <u>21</u> Exhibit 18 – December 30, 2022 Ripps Twitter post, # <u>22</u> Exhibit 19 – October 18, 2022 Deft Ripps and Rodney Ripps Twitter posts, # <u>23</u> Exhibit 20 – October 25, 2022 Cahen and Rodney Ripps Twitter posts) (Ball, Eric) (Entered: 01/18/2023)
01/19/2023	<u>90</u>	FOR COURT USE ONLY: STATISTICAL CORRECTION Granting in part <u>66</u> Motion to Compel re: <u>79</u> In Chambers Order (es) (Entered: 01/19/2023)
01/19/2023	<u>91</u>	NOTICE OF LODGING filed of <i>Proposed Order</i> re NOTICE OF MOTION AND MOTION to Strike Counterclaims; Plaintiff Yuga Labs, Inc.'s Motion to Dismiss Counterclaims <u>89</u> (Attachments: # <u>1</u> Proposed Order re Plaintiff's Motion to Strike Counterclaims)(Tompros, Louis) (Entered: 01/19/2023)
01/24/2023	<u>92</u>	JOINT REPORT of RESULTS OF SETTLEMENT CONFERENCE filed by Plaintiff Yuga Labs, Inc.. (Fares, Anthony) (Entered: 01/24/2023)
01/26/2023	<u>93</u>	ORDER by Judge John F. Walter: Granting Application of Non-Resident Attorney David Sillers to Appear Pro Hac Vice on behalf of Plaintiff Yuga Labs, Inc., designating Melissa Lawton as local counsel <u>83</u> . (iv) (Entered: 01/26/2023)
01/26/2023	<u>94</u>	ORDER by Judge John F. Walter: Granting Application of Non-Resident Attorney Kathryn Humphrey to Appear Pro Hac Vice on behalf of Plaintiff Yuga Labs, Inc., designating Melissa Lawton as local counsel <u>84</u> . (iv) (Entered: 01/26/2023)
01/26/2023	<u>95</u>	ORDER by Judge John F. Walter: Granting Application of Non-Resident Attorney Megan Meier to Appear Pro Hac Vice on behalf of Plaintiff Yuga Labs, Inc., designating Melissa Lawton as local counsel <u>85</u> . (iv) (Entered: 01/26/2023)
02/06/2023	<u>96</u>	MEMORANDUM in Opposition to NOTICE OF MOTION AND MOTION to Strike Counterclaims; Plaintiff Yuga Labs, Inc.'s Motion to Dismiss Counterclaims <u>89</u> filed by Defendants Jeremy Cahen, Ryder Ripps. (Attachments: # <u>1</u> Declaration of Louis Tompros, # <u>2</u> Exhibit 1 – Proposed Amended Answer and Counterclaims, # <u>3</u> Exhibit 2 – January 18, 2023, email from L. Tompros to counsel for Yuga Labs, # <u>4</u> Exhibit 3 – Gizmodo Article on Yuga Labs' Copyrights)(Tompros, Louis) (Entered: 02/06/2023)



### **CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of February, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Louis W. Tompros

LOUIS W. TOMPROS